Journal of the House

State of Indiana

113th General Assembly *First Regular Session*

Fifty-first Meeting Day **Wednesday Afternoon** **April 23, 2003**

The House convened at 1:30 p.m. with the Speaker in the Chair.

The invocation was offered by Father Bob Klemme, St. Mary's Cathedral, Lafayette, the guest of Representative Sheila A. Klinker.

The Pledge of Allegiance to the Flag was led by Representative Klinker.

The Speaker ordered the roll of the House to be called:

T. Adams	Kromkowski
Aguilera	Kruse
Alderman	Kuzman
Austin	LaPlante
Avery	L. Lawson
Ayres	Lehe
Bardon	Leonard
Becker	Liggett
Behning	J. Lutz
Bischoff	Lytle ⏏
Borror	Mahern
Bosma	Mangus
Bottorff	Mays
C. Brown	McClain
T. Brown	Moses
Buck	Murphy
Budak ⏏	Neese
Buell	Noe
Burton	Orentlicher
Cheney	Oxley
Cherry	Pelath
Chowning	Pflum
Cochran	Pierce
Crawford	Pond
Crooks	Porter
Day	Reske
Denbo	Richardson
Dickinson	Ripley
Dobis	Robertson
Duncan	Ruppel
Dvorak	Saunders
Espich	Scholer
Foley	V. Smith
Frenz	Stevenson
Friend	Stilwell
Frizzell	Stine
Fry	Stutzman
GiaQuinta ⏏	Summers
Goodin	Thomas
Grubb	Thompson
Gutwein	Torr
Harris	Turner
Hasler	Ulmer
Heim	Weinzapfel
Herrell	Welch
Hinkle	Whetstone
Hoffman	Wolkins
Kersey	D. Young
Klinker	Yount ⏏
Koch	Mr. Speaker

Roll Call 621: 96 present; 4 excused. The Speaker announced a quorum in attendance. [*NOTE*: ⏏ *indicates those who were excused*.]

HOUSE MOTION

Mr. Speaker: I move that when we do adjourn, we adjourn until Thursday, April 24, 2003, at 9:00 a.m.

AUSTIN

Motion prevailed.

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the President Pro Tempore of the Senate has appointed the following Senators a conference committee to confer on Engrossed House Bill 1047:

Conferees: Long and Howard

MARY C. MENDEL
Principal Secretary of the Senate

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the President Pro Tempore of the Senate has appointed the following Senators a conference committee to confer on Engrossed House Bill 1210:

Advisors: Long and Rogers

MARY C. MENDEL
Principal Secretary of the Senate

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has passed Senate Concurrent Resolutions 76 and 77 and the same are herewith transmitted to the House for further action.

MARY C. MENDEL
Principal Secretary of the Senate

CONFERENCE COMMITTEE REPORTS

CONFERENCE COMMITTEE REPORT
EHB 1056–1; filed April 22, 2003, at 3:47 p.m.

Mr. Speaker: Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed Senate Amendments to Engrossed House Bill 1056 respectfully reports that said two committee have conferred and agreed as follows to wit:

that the House recede from its dissent from all Senate amendments and that the House now concur in all Senate amendments to the bill and that the bill be further amended as follows:

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 1-2-3-6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 6. A state flag, when it is in such condition that it is no longer a fitting emblem for display, should be destroyed in a dignified way in the manner prescribed for the destruction of an American flag.**

SECTION 2. IC 20-10.1-2-7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 7. (a) As used in this section, "motto" refers to the national motto of the United States as adopted by Congress, as defined by the U.S.C. Title 36, Subtitle I, Part A, Chapter 3, Sec. 302.**

(b) The governing body of each school corporation may display the motto:

(1) in English;

(2) in such a manner that the wording is legible to most people from a distance of twenty (20) feet; and

(3) in a conspicuous place in the main entrance of each building of the school corporation.

(c) The display must include:

(1) the phrase "The National Motto of the United States of America, adopted by Congress"; and

(2) the date of adoption of the motto by Congress;

as part of the display.

(d) The governing body of a school corporation may not use any public funds to pay the costs of a display under this section if donations are available for payment of the costs.

SECTION 3. IC 20-10.1-4-0.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 0.5. (a) The United States flag and the Indiana state flag may be displayed in each classroom of each school in a school corporation.**

(b) The governing body of each school corporation may provide a daily opportunity in each classroom of the school corporation for students to voluntarily recite the Pledge of Allegiance. A student is exempt from participation in the recitation of the Pledge of Allegiance and may not be required to participate in the recitation of the Pledge of Allegiance if:

(1) the student chooses not to participate; or

(2) the student's parent chooses not to have the student participate.

(c) This subsection applies if the governing body of a school corporation has not adopted a policy under subsection (b). The following individuals may establish a policy that conforms with the requirements set forth in subsection (b):

(1) The principal of a school may establish a policy for a school building.

(2) A teacher may establish a policy for the teacher's classroom, if the principal of the school in which the teacher teaches has not established a policy.

If the governing body of the school corporation establishes a policy after a principal or teacher has established a policy, the principal or teacher must follow the governing body's policy.

SECTION 4. IC 20-10.1-4-3.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 3.5. (a) In order to guarantee the right of every pupil to the free exercise of religion within the schools and to subject the freedom of each individual pupil to the least possible pressure from the state either to engage in or to refrain from religious observation on school grounds, the governing body of each school corporation may establish the daily observance of a brief period of silence in each classroom of the school corporation.**

(b) The brief period of silence that subsection (a) provides is not a religious service or exercise and may not be conducted as one, but is an opportunity for silent prayer or meditation on a religious theme for those so inclined or a moment of silent reflection on the anticipated activities of the day.

(c) This subsection applies if the governing body of a school corporation has not adopted a policy under subsection (a). The following individuals may establish a policy that conforms with the requirements set forth in subsection (b):

(1) The principal of a school may establish a policy for a school building.

(2) A teacher may establish a policy for the teacher's classroom, if the principal of the school in which the teacher teaches has not established a policy.

If the governing body of the school corporation establishes a policy after a principal or teacher has established a policy, the principal or teacher must follow the governing body's policy.

SECTION 5. IC 20-10.1-7-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8. ~~Voluntary Religious Observance - Authorized.~~ A voluntary religious observance is permitted in each school corporation if the school corporation follows sections 9 **and** 10 ~~and 11~~ of this chapter and any additional procedures which it adopts to assure that the observance is voluntary.

SECTION 6. IC 20-10.1-7-11 IS REPEALED [EFFECTIVE JULY 1, 2003].

SECTION 7. **An emergency is declared for this act.**

(Reference is to EHB 1056 as reprinted March 19, 2003.)

GOODIN	NUGENT
RUPPEL	SIPES
House Conferees	Senate Conferees

The conference committee report was filed and read a first time.

CONFERENCE COMMITTEE REPORT
EHB 1378–1; filed April 22, 2003, at 4:07p.m.

Mr. Speaker: Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed Senate Amendments to Engrossed House Bill 1378 respectfully reports that said two committee have conferred and agreed as follows to wit:

that the House recede from its dissent from all Senate amendments and that the House now concur in all Senate amendments to the bill and that the bill be further amended as follows:

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 32-30-5-7, AS ADDED BY P.L.2-2002, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. The receiver may, under control of the court or the judge:

(1) bring and defend actions;

(2) take and keep possession of the property;

(3) receive rents; ~~and~~

(4) collect debts; **and**

(5) sell property;

in the receiver's own name, and generally do other acts respecting the property as the court or judge may authorize.

SECTION 2. IC 36-1-6-2, AS AMENDED BY P.L.50-2002, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. (a) If a condition violating an ordinance of a municipal corporation exists on real property, officers of the municipal corporation may enter onto that property and take appropriate action to bring the property into compliance with the ordinance. However, before action to bring compliance may be taken, all persons holding a substantial interest in the property must be given a reasonable opportunity **of at least ten (10) days but not more than sixty (60) days** to bring the property into compliance. If action to bring compliance is taken by the municipal corporation, the expense involved may be made a lien against the property.

(b) ~~If the violation described in subsection (a) is a violation that is located outdoors and does not involve a building or structure,~~ The municipal corporation may ~~also~~ issue a bill to the owner of the real property for the costs incurred by the municipal corporation in bringing the property into compliance with the ordinance, including administrative costs and removal costs.

(c) If the owner of the real property fails to pay a bill issued under subsection (b), the municipal corporation may, **after thirty (30) days,** certify to the county auditor the amount of the bill, plus any additional administrative costs incurred in the certification. The auditor shall place the total amount certified on the tax duplicate for the property affected, and the total amount, including any accrued interest, shall be collected as delinquent taxes are collected and shall be disbursed to the general fund of the municipal corporation.

SECTION 3. IC 36-7-9-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. As used in this chapter:

"Community organization" means a citizen's group, neighborhood association, neighborhood development corporation, or similar organization that:

(1) has specific geographic boundaries defined in its bylaws or articles of incorporation and contains at least forty (40) households within those boundaries;

(2) is a nonprofit corporation that is representative of at least twenty-five (25) households or twenty percent (20%) of the households in the community, whichever is less;

(3) is operated primarily for the promotion of social welfare and general neighborhood improvement and enhancement;

(4) has been incorporated for at least two (2) years; and

(5) is exempt from taxation under Section 501(c)(3) or 501(c)(4) of the Internal Revenue Code.

"Department" refers to the executive department authorized by ordinance to administer this chapter. In a consolidated city, this department is the department of metropolitan development, subject to IC 36-3-4-23.

"Enforcement authority" refers to the chief administrative officer of the department, except in a consolidated city. In a consolidated city, the division of development services is the enforcement authority, subject to IC 36-3-4-23.

"Hearing authority" refers to a person or persons designated as such by the executive of a city or county, or by the legislative body of a town. However, in a consolidated city, the director of the department or a person designated by him is the hearing authority. An employee of the enforcement authority may not be designated as the hearing authority.

"Substantial property interest" means any right in real property that may be affected in a substantial way by actions authorized by this chapter, including a fee interest, a life estate interest, a future interest, a present possessory interest, or an equitable interest of a contract purchaser. In a consolidated city, the interest reflected by a deed, lease, license, mortgage, land sale contract, or lien is not a substantial property interest unless the deed, lease, license, mortgage, land sale contract, lien, or evidence of it is:

(1) recorded in the office of the county recorder; or

(2) the subject of a written information that is received by the division of development services and includes the name and address of the holder of the interest described.

SECTION 4. IC 36-7-9-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. (a) The enforcement authority may issue an order requiring action relative to any unsafe premises, including:

(1) vacating of an unsafe building;

(2) sealing an unsafe building against intrusion by unauthorized persons, in accordance with a uniform standard established by ordinance;

(3) extermination of vermin in and about the unsafe premises;

(4) removal of trash, debris, or fire hazardous material in and about the unsafe premises;

(5) repair or rehabilitation of an unsafe building to bring it into compliance with standards for building condition or maintenance required for human habitation, occupancy, or use by a statute, a rule adopted under IC 4-22-2, or an ordinance;

(6) removal of part of an unsafe building;

(7) removal of an unsafe building; and

(8) requiring, for an unsafe building that will be sealed for a period of more than ninety (90) days:

(A) sealing against intrusion by unauthorized persons and the effects of weather;

(B) exterior improvements to make the building compatible in appearance with other buildings in the area; and

(C) continuing maintenance and upkeep of the building and premises;

in accordance with standards established by ordinance.

Notice of the order must be given under section 25 of this chapter. The ordered action must be reasonably related to the condition of the unsafe premises and the nature and use of nearby properties. The order supersedes any permit relating to building or land use, whether that permit is obtained before or after the order is issued.

(b) The order must contain:

(1) the name of the person to whom the order is issued;

(2) the legal description or address of the unsafe premises that are the subject of the order;

(3) the action that the order requires;

(4) the period of time in which the action is required to be accomplished, measured from the time when the notice of the order is given;

(5) if a hearing is required, a statement indicating the exact time and place of the hearing, and stating that person to whom the order was issued is entitled to appear at the hearing with or without legal counsel, present evidence, cross-examine opposing witnesses, and present arguments;

(6) if a hearing is not required, a statement that an order under subsection (a)(2), (a)(3), ~~or~~ (a)(4)**, or (a)(5)** becomes final ten (10) days after notice is given, unless a hearing is requested in writing by a person holding a fee interest, life estate interest, or equitable interest of a contract purchaser in the unsafe premises, and the request is delivered to the enforcement authority before the end of the ten (10) day period;

(7) a statement briefly indicating what action can be taken by the enforcement authority if the order is not complied with;

(8) a statement indicating the obligation created by section 27 of this chapter relating to notification of subsequent interest holders and the enforcement authority; and

(9) the name, address, and telephone number of the enforcement authority.

(c) The order must allow a sufficient time, of at least ten (10) days, **but not more than sixty (60) days,** from the time when notice of the order is given, to accomplish the required action. If the order allows more than thirty (30) days to accomplish the action, the order may require that a substantial beginning be made in accomplishing the action within thirty (30) days.

(d) The order expires two (2) years from the day the notice of the order is given, unless one (1) or more of the following events occurs within that two (2) year period:

(1) A complaint requesting judicial review is filed under section 9 of this chapter.

(2) A contract for action required by the order is let at public bid under section 11 of this chapter.

(3) A civil action is filed under section 17 of this chapter.

SECTION 5. IC 36-7-9-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. (a) A hearing must be held relative to each order of the enforcement authority, except for an order issued under section 5(a)(2), 5(a)(3), ~~or~~ 5(a)(4), **or 5(a)(5)** of this chapter. An order issued under section 5(a)(2), 5(a)(3), ~~or~~ 5(a)(4), **or 5(a)(5)** of this chapter becomes final ten (10) days after notice is given, unless a hearing is requested before the ten (10) day period ends by a person holding a fee interest, life estate interest, or equitable interest of a contract purchaser in the unsafe premises. The hearing shall be conducted by the hearing authority.

(b) The hearing shall be held on a business day no earlier than ten (10) days after notice of the order is given. The hearing authority may, however, take action at the hearing, or before the hearing if a written request is received by the enforcement authority not later than five (5) days after notice is given, to continue the hearing to a business day not later than fourteen (14) days after the hearing date shown on the order. Unless the hearing authority takes action to have the continued hearing held on a definite, specified date, notice of the continued hearing must be given to the person to whom the order was issued at least five (5) days before the continued hearing date, in the manner prescribed by section 25 of this chapter. If the order being considered at the continued hearing was served by publication, it is sufficient to give notice of the continued hearing by publication unless the enforcement authority has received information in writing that enables it to make service under section 25 of this chapter by a method other than publication.

(c) The person to whom the order was issued, any person having a substantial property interest in the unsafe premises that are the subject of the order, or any other person with an interest in the proceedings may appear in person or by counsel at the hearing. Each person appearing at the hearing is entitled to present evidence, cross-examine opposing witnesses, and present arguments.

(d) At the conclusion of any hearing at which a continuance is not granted, the hearing authority may make findings and take action to:

(1) affirm the order;

(2) rescind the order; or

(3) modify the order, but unless the person to whom the order was issued, or counsel for that person, is present at the hearing, the hearing authority may modify the order in only a manner that makes its terms less stringent.

In addition to affirming the order, in those cases in which the hearing authority finds that there has been a willful failure to comply with the order, the hearing authority may impose a civil penalty in an amount

not to exceed ~~one~~ **five** thousand dollars ~~($1,000).~~ **($5,000).** The effective date of the civil penalty may be postponed for a reasonable period, after which the hearing authority may order the civil penalty reduced or stricken if the hearing authority is satisfied that all work necessary to fully comply with the order has been done. For purposes of an appeal under section 8 of this chapter or enforcement of an order under section 17 of this chapter, action of the hearing authority is considered final upon the affirmation of the order, even though the hearing authority may retain jurisdiction for the ultimate determination of a fine.

(e) If, at a hearing, a person to whom an order has been issued requests an additional period to accomplish action required by the order, and shows good cause for this request to be granted, the hearing authority may grant the request. However, as a condition for allowing the additional period, the hearing authority may require that the person post a performance bond to be forfeited if the action required by the order is not completed within the additional period.

(f) The board or commission having control over the department shall, at a public hearing, after having given notice of the time and place of the hearing by publication in accordance with IC 5-3-1, adopt a schedule setting forth the maximum amount of performance bonds applicable to various types of ordered action. The hearing authority shall use this schedule to fix the amount of the performance bond required under subsection (e).

(g) The record of the findings made and action taken by the hearing authority at the hearing shall be available to the public upon request. However, neither the enforcement authority nor the hearing authority is required to give any person notice of the findings and action.

(h) A civil penalty under subsection (d) may be collected in the same manner as costs under section 13 of this chapter. The amount of the civil penalty that is collected shall be deposited in the unsafe building fund.

SECTION 6. IC 36-7-9-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 10. (a) The enforcement authority may cause the action required by an order issued under section 5(a)(2), 5(a)(3), ~~or~~ 5(a)(4), **or 5(a)(5)** of this chapter to be performed by a contractor if:

(1) the order has been served, in the manner prescribed by section 25 of this chapter, on each person having a fee interest, life estate interest, or equitable interest of a contract purchaser in the unsafe premises that are the subject of the order;

(2) the order has not been complied with;

(3) a hearing was not requested under section 5(b)(6) of this chapter, or, if a hearing was requested, the order was affirmed at the hearing; and

(4) the order is not being reviewed under section 8 of this chapter.

(b) The enforcement authority may cause the action required by an order, other than an order under section 5(a)(2), 5(a)(3), ~~or~~ 5(a)(4), **or 5(a)(5)** of this chapter, to be performed if:

(1) service of an order, in the manner prescribed by section 25 of this chapter, has been made on each person having a substantial property interest in the unsafe premises that are the subject of the order;

(2) the order has been affirmed or modified at the hearing in such a manner that all persons having a substantial property interest in the unsafe premises that are the subject of the order are currently subject to an order requiring the accomplishment of substantially identical action;

(3) the order, as affirmed or modified at the hearing, has not been complied with; and

(4) the order is not being reviewed under section 8 of this chapter.

(c) If action is being taken under this section on the basis of an order that was served by publication, it is sufficient to serve the statement **by publication and indicate** that the enforcement authority intends to perform the work, ~~by publication,~~ unless the authority has received information in writing that enables it to make service under section 25 of this chapter by a method other than publication.

SECTION 7. IC 36-7-9-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 17. **(a)** The department, acting through its enforcement authority, ~~or~~ a person designated by the enforcement authority, **or a community organization** may bring a civil action regarding unsafe premises in the circuit, superior, or municipal court of the county. The department is not liable for the costs of such an action. The court may grant one (1) or more of the kinds of relief authorized by sections 18 through 22 of this chapter.

(b) A civil action may not be initiated under this section before the final date of an order or an extension of an order under section 5(c) of this chapter requiring:

(1) the completion; or

(2) a substantial beginning toward accomplishing the completion;

of the required remedial action.

(c) A community organization may not initiate a civil action under this section if:

(1) the enforcement authority or a person designated by the enforcement authority has filed a civil action under this section regarding the unsafe premises; or

(2) the enforcement authority has issued a final order that the required remedial action has been satisfactorily completed.

(d) A community organization may not initiate a civil action under this section if the real property that is the subject of the civil action is located outside the specific geographic boundaries of the area defined in the bylaws or articles of incorporation of the community organization.

(e) At least sixty (60) days before commencing a civil action under this section, a community organization must issue a notice by certified mail, return receipt requested, that:

(1) specifies:

(A) the nature of the alleged nuisance;

(B) the date the nuisance was first discovered;

(C) the location on the property where the nuisance is allegedly occurring;

(D) the intent of the community organization to bring a civil action under this section; and

(E) the relief sought in the action; and

(2) is provided to:

(A) the owner of record of the premises;

(B) tenants located on the premises;

(C) the enforcement authority; and

(D) any person that possesses an interest of record.

(f) In any action filed by a community organization under this section, a court may award reasonable attorney's fees, court costs, and other reasonable expenses of litigation to the prevailing party.

SECTION 8. IC 36-7-9-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 20. (a) A court acting under section 17 of this chapter may appoint a receiver for the unsafe premises, subject to the following conditions:

(1) The purpose of the receivership must be to take possession of the unsafe premises for a period sufficient to accomplish and pay for repairs and improvements.

(2) The receiver may be a ~~not-for-profit~~ **nonprofit** corporation the primary purpose of which is the improvement of housing conditions in the county where the unsafe premises are located, or may be any other capable person residing in the county.

(3) Notwithstanding any prior assignments of the rents and other income of the unsafe premises, the receiver must collect and use that income to repair or remove the defects as required by the order, and may, upon approval by the court, make repairs and improvements in addition to those specified in the order or required by applicable statutes, ordinances, codes, or regulations.

(4) The receiver may make any contracts and do all things necessary to accomplish the repair and improvement of the unsafe premises.

(5) **A receiver that expends money, performs labor, or furnishes materials or machinery, including the leasing of**

equipment or tools, for the repair of an unsafe premises may have a lien that is equal to the total expended. When a lien exists, the receiver may sell the property:

(A) to the highest bidder at auction under the same notice and sale provisions applicable to a foreclosure sale of mechanic's liens or mortgages; or

(B) for fair market value if all persons having a substantial property interest in the unsafe premises agree to the amount and procedure.

The transferee in either a public or private sale must first demonstrate the necessary ability and experience to rehabilitate the premises within a reasonable time to the satisfaction of the receiver.

(6) The court may, after a hearing, authorize the receiver to obtain money needed to accomplish the repairs and improvement by the issuance and sale of notes or receiver's certificates to the receiver or any other person or party bearing interest fixed by the court. The notes or certificates are a first lien on the unsafe premises and the rents and income of the unsafe building. This lien is superior to all other assignments of rents, liens, mortgages, or other encumbrances on the property, except taxes, if, within sixty (60) days following the sale or transfer for value of the notes by the receiver, the holder of the notes files a notice containing the following information in the county recorder's office:

(A) The legal description of the tract of real property on which the unsafe building is located.

(B) The face amount and interest rate of the note or certificate.

(C) The date when the note or certificate was sold or transferred by the receiver.

(D) The date of maturity.

~~(6)~~ **(7)** Upon payment to the holder of a receiver's note or certificate of the face amount and interest, and upon filing in the recorder's office of a sworn statement of payment, the lien of that note or certificate is released. Upon a default in payment on a receiver's note or certificate, the lien may be enforced by proceedings to foreclose in the manner prescribed for mechanic's liens or mortgages. However, the foreclosure proceedings must be commenced within two (2) years after the date of default.

~~(7)~~ **(8)** The receiver is entitled to the same fees, commissions, and necessary expenses as receivers in actions to foreclose mortgages. The fees, commissions, and expenses shall be paid out of the rents and incomes of the property in receivership.

(b) The issuance of an order concerning unsafe premises is not a prerequisite to the appointment of a receiver nor does such an order prevent the appointment of a receiver.

(c) If the enforcement authority or the enforcement authority's designee requests the appointment of a receiver, all persons having a substantial property interest in the unsafe premises shall be made party defendants.

(d) A court, when granting powers and duties to a receiver, shall consider:

(1) the occupancy of the unsafe premises;

(2) the overall condition of the property;

(3) the hazard to public health, safety, and welfare;

(4) the number of persons having a substantial property interest in the unsafe premises; and

(5) other factors the court considers relevant.

(e) Instead of appointing a receiver to sell or rehabilitate an unsafe premises, the court may permit an owner, a mortgagee, or a person with substantial interest in the unsafe premises to rehabilitate the premises if the owner, mortgagee, or person with substantial interest:

(1) demonstrates ability to complete the rehabilitation within a reasonable time, but not to exceed sixty (60) days;

(2) agrees to comply within a specified schedule for rehabilitation; and

(3) posts a bond as security for performance of the required work in compliance with the specified schedule in subdivision (2).

SECTION 9. IC 36-7-9-26 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 26. (a) The enforcement authority shall record in the office of the county recorder orders issued under section ~~5~~ **5(a)(6), 5(a)(7),** or 6(a) of this chapter**. If the enforcement authority records an order issued under section 5(a)(6), 5(a)(7), or 6(a) of this chapter,** statements of rescission issued under section 6(b) of this chapter, statements that public bids are to be let under section 11 of this chapter, and records of action in which ~~an~~ **the** order is affirmed, modified, or rescinded taken by the hearing authority under section 7 of this chapter **shall be recorded.** The recorder shall charge the fee required under IC 36-2-7-10 for recording these items.

(b) A person who takes an interest in unsafe premises that are the subject of ~~an~~ **a recorded** order takes that interest, whether or not a hearing has been held, subject to the terms of the order **and other documents recorded under subsection (a)** and in such a manner that all of the requirements of sections 10, 11, and 17 through 22 of this chapter relating to the issuance of orders, service of orders and affirmation of orders are considered satisfied. If a hearing has been held, the interest is taken subject to the terms of the order as modified at the hearing, **in other documents recorded under subsection(a),** and in such a manner that all of the requirements of sections 10, 11, and 17 through 22 of this chapter relating to the issuance of orders, service of orders, and modification of orders at hearing are considered satisfied.

(c) A person who takes an interest in unsafe premises that are the subject of a **recorded** statement that public bids are to be let takes the interest subject to the terms of the statement and in such a manner that the notice of the statement required by section 11 of this chapter is considered given to the person.

SECTION 10. IC 36-7-15.1-15.1, AS AMENDED BY P.L.86-1999, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 15.1. (a) As used in this section, "qualifying corporation" refers to a nonprofit corporation or neighborhood development corporation that meets the requirements of subsection (b)(1) and the criteria established by the county fiscal body under subsection (I).

(b) The commission may sell or grant at no cost title to real property to a nonprofit corporation or neighborhood development corporation for the purpose of providing low or moderate income housing or other development that will benefit or serve low or moderate income families if the following requirements are met:

(1) The nonprofit corporation or neighborhood development corporation has, as a major corporate purpose and function, the provision of housing for low and moderate income families within the geographic area in which the parcel of property is located.

(2) The qualifying corporation agrees to cause development that will serve or benefit low or moderate income families on the parcel of property within a specified period, which may not exceed five (5) years from the date of the sale or grant.

(3) The qualifying corporation, if the qualifying corporation is a neighborhood development corporation, agrees that the qualifying corporation and each applicant, recipient, contractor, or subcontractor undertaking work in connection with the real property will:

(A) use lower income project area residents as trainees and as employees; and

(B) contract for work with business concerns located in the project area or owned in substantial part by persons residing in the project area;

to the greatest extent feasible, as determined under the standards specified in 24 CFR 135.

(4) The county fiscal body has determined that the corporation meets the criteria established under subsection (I).

(5) The qualifying corporation agrees to rehabilitate or otherwise develop the property in a manner that is similar to and consistent with the use of the other properties in the area served by the qualifying corporation.

(c) To carry out the purposes of this section, the commission may secure from the county under IC 6-1.1-25-9(e) parcels of property acquired by the county under IC 6-1.1-24 and IC 6-1.1-25.

(d) Before offering any parcel of property for sale or grant, the fair market value of the parcel of property must be determined. ~~by an appraiser, who may be an~~ **The fair market value may be determined by an appraisal made by a qualified** employee of the department. However, **if the qualified employee of the department determines that:**

(1) the property:

(A) is less than five (5) acres in size; and

(B) has a fair market value that is less than ten thousand dollars ($10,000); or

(2) if the commission has obtained the parcel in the manner described in subsection (c);

an appraisal is not required. An appraisal under this subsection is solely for the information of the commission and is not available for public inspection.

(e) The commission must decide whether the commission will sell or grant the parcel of real property at a public meeting. In making this decision, the commission shall give substantial weight to the extent to which and the terms under which the qualifying corporation will cause development to serve or benefit families of low or moderate income. If more than one (1) qualifying corporation is interested in acquiring a parcel of real property, the commission shall conduct a hearing at which a representative of each corporation may state the reasons why the commission should sell or grant the parcel to that corporation.

(f) Before conducting a hearing under subsection (e), the commission shall publish a notice in accordance with IC 5-3-1 indicating that at a designated time the commission will consider selling or granting the parcel of real property under this section. The notice must state the general location of the property, including the street address if any, or a common description of the property other than the legal description.

(g) If the county agrees to transfer a parcel of real property to the commission to be sold or granted under this section, the commission may conduct a hearing to sell or grant the parcel to a qualifying corporation even though the parcel has not yet been transferred to the commission. After the hearing, the commission may adopt a resolution directing the department to take appropriate steps necessary to acquire the parcel from the county and to transfer the parcel to the qualifying corporation.

(h) A conveyance of property to a qualifying corporation under this section shall be made in accordance with section 15(i) of this chapter.

(i) The county fiscal body shall establish criteria for determining the eligibility of nonprofit corporations and neighborhood development corporations for sales or grants of real property under this section. A nonprofit corporation or neighborhood development corporation may apply to the county fiscal body for a determination concerning the corporation's compliance with the criteria established under this subsection.

SECTION 11. IC 36-7-17-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. The fiscal body of a unit may by ordinance designate an agency or quasi-public corporation, or establish a new agency, to administer an urban homesteading program under which family dwellings for one (1) through four (4) families may be conveyed to individuals or families, who must occupy and rehabilitate the dwellings, **and community organizations that must rehabilitate the dwellings and offer them for sale.**

SECTION 12. IC 36-7-17-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. (a) A person **or community organization** may apply for the program by completing a bid application.

(b) **The following** ~~An applicant is~~ **applicants are** qualified and shall be approved to receive real property offered under this chapter: ~~if he:~~

(1) **A person who:**

(A) is at least eighteen (18) years of age;

~~(2)~~ **(B)** possesses the financial resources to support a loan, the necessary skills to rehabilitate the property, or a combination of both; and

~~(3)~~ **(C)** has, including immediate family, not previously participated in the program.

(2) A community organization as described in IC 36-7-9-2.

(c) Approved applicants are entitled to receive a list of all properties owned by the unit that are available under this chapter.

(d) Approved applicants may apply for each dwelling in which they are interested. A drawing shall be held to determine those ~~persons~~ **applicants** receiving the dwellings. **Persons applying under this chapter shall receive priority over community organizations if both indicate an interest in the same dwelling.** Each approved ~~applicant~~ **person** and his **or her** immediate family may receive only one (1) dwelling in the drawing. **Each approved community organization may receive as many dwellings as the agency considers proper.**

SECTION 13. IC 36-7-17-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. The conveyance of a dwelling to an applicant under this chapter shall be made in return for a fee of one dollar ($1) or more and the execution by the applicant of an agreement with the following minimum conditions:

(1) The applicant must:

(A) if a person, reside in the dwelling as ~~his~~ **the person's** principal place of residence for a period of not less than three (3) years; **or**

(B) if a community organization, agree to list the dwelling for sale within twelve (12) months after possession.

(2) The applicant must bring the residence up to a minimum code standard, including building, plumbing, electrical, and fire code standards, within twelve (12) months after possession, or before possession if required under subdivision (4).

(3) The applicant must carry fire and liability insurance on the dwelling at all times.

(4) The applicant must comply with any additional terms, conditions, and requirements that the agency may impose to assure that the purposes of this chapter are carried out. This may include the requirement that the dwelling be rehabilitated to minimum building code standards before possession.

SECTION 14. IC 36-7-17-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. (a) The agency shall convey the real property acquired for the purposes of this chapter to those persons **or community organizations** qualified under section 6 of this chapter by using the methods prescribed by subsection (b), ~~or subsection~~ (c), **or (d).**

(b) The real property may be conveyed by a conditional sales contract, with title to remain in the agency for a period of at least one (1) year.

(c) The title to real property may be conveyed to ~~the purchaser~~ **a person purchasing the property** as a determinable fee, with the language of the granting clause in the deed of conveyance to include the language "The property is conveyed on the conditions that the purchaser:

(1) will reside in the dwelling as his principal place of residence for a period of not less than three (3) years;

(2) will bring the residence up to minimum code standards in twelve (12) months;

(3) will carry adequate fire and liability insurance on the dwelling at all times; and

(4) will comply with such additional terms, conditions, and requirements as the agency requires before _____ (date of the deed) under IC 36-7-17".

(d) The title to real property may be conveyed to a community organization purchasing the property as a determinable fee, with the language of the granting clause in the deed of conveyance to include the language: "The property is conveyed on the conditions that the purchaser:

(1) will list the property for sale within twelve (12) months of taking possession;

(2) will bring the residence up to minimum code standards within twelve (12) months;

(3) will carry adequate fire and liability insurance on the dwelling at all times; and

(4) will comply with any additional terms, conditions, and

requirements as the agency requires before _____ (date of the deed) under IC 36-7-17.".

SECTION 15. IC 36-7-17-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 9. **(a) When,** after ~~the purchaser~~ **purchase, a person** has resided in the dwelling for the required three (3) year period, brought the property into compliance with the required code standards, and otherwise complied with the terms of ~~his~~ **the person's** agreement, the agency shall convey to ~~him~~ **the person** a fee simple title to the property.

(b) When, after purchase, a community organization has brought the property into compliance with the required code standards, documented its intent to list the property for sale, and otherwise complied with the terms of its agreement, the agency shall convey to it a fee simple title to the property.

SECTION 16. [EFFECTIVE UPON PASSAGE] **(a) Notwithstanding IC 36-1-6 and IC 36-7-9, a municipal corporation under IC 36-1-6-2, as amended by this act, and an enforcement authority under IC 36-7-9-2, as amended by this act, may establish and maintain a registry of properties within its jurisdiction known to be:**

(1) in a condition that violates local ordinances; and

(2) eligible for enforcement procedures under IC 36-1-6-2 and IC 36-7-9-5, both as amended by this act.

(b) The information in the registry shall be made available to the public under IC 5-14-3 for inspection and copying during ordinary business hours.

(c) The owners of property recorded in the registry shall provide:

(1) either:

(A) their mailing address; or

(B) the name and mailing address of their agent;

for the purpose of service of process; and

(2) the name and address of the insurance carrier providing insurance coverage on the property.

(d) The registered owner of the property must notify the enforcement authority of a change in ownership.

(e) Beginning July 1, 2003, new enforcement activities made possible under IC 36-1-6 or IC 36-7-9 by the amendments in this act may not be initiated by a municipal corporation or an enforcement authority that affect a property recorded in a registry until October 1, 2003.

(f) This SECTION expires on October 1, 2003.

SECTION 17. [EFFECTIVE UPON PASSAGE] **This act does not affect:**

(1) rights or liabilities accrued;

(2) penalties incurred;

(3) crimes committed; or

(4) proceedings begun;

before the effective date of this act. Those rights, liabilities, penalties, crimes, and proceedings continue and shall be imposed and enforced under prior law as if this act had not been enacted.

SECTION 18. **An emergency is declared for this act.**

(Reference is to EHB 1378 as printed April 4, 2003.)

DAY	SERVER
ALDERMAN	ROGERS
House Conferees	Senate Conferees

The conference committee report was filed and read a first time.

CONFERENCE COMMITTEE REPORT
ESB 238–1; filed April 22, 2003, at 6:42 p.m.

Mr. Speaker: Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed House Amendments to Engrossed Senate Bill 238 respectfully reports that said two committee have conferred and agreed as follows to wit:

that the Senate recede from its dissent from all House amendments and that the Senate now concur in all House amendments to the bill and that the bill be further amended as follows:

Page 1, delete lines 1 through 17.

Page 2, delete lines 1 through 15.

Renumber all SECTIONS consecutively.

(Reference is to ESB 238 as printed April 4, 2003.)

C. LAWSON	FRENZ
BREAUX	THOMPSON
Senate Conferees	House Conferees

The conference committee report was filed and read a first time.

CONFERENCE COMMITTEE REPORT
ESB 340–1; filed April 22, 2003, at 6:42 p.m.

Mr. Speaker: Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed House Amendments to Engrossed Senate Bill 340 respectfully reports that said two committee have conferred and agreed as follows to wit:

that the Senate recede from its dissent from all House amendments and that the Senate now concur in all House amendments to the bill and that the bill be further amended as follows:

Page 2, line 34, delete "Not more than five percent (5%) of the" and insert "**An**".

Page 2, line 35, delete "dentistry's full-time faculty may be" and insert "**dentistry may not employ more than two (2)**".

Page 2, line 36, delete "." and insert "**at a time.**".

(Reference is to ESB 340 as printed March 21, 2003.)

MILLER	C. BROWN
BREAUX	BUELL
Senate Conferees	House Conferees

The conference committee report was filed and read a first time.

CONFERENCE COMMITTEE REPORT
EHB 1219–1; filed April 23, 2003, at 10:10 a.m.

Mr. Speaker: Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed Senate Amendments to Engrossed House Bill 1219 respectfully reports that said two committee have conferred and agreed as follows to wit:

that the House recede from its dissent from all Senate amendments and that the House now concur in all Senate amendments to the bill and that the bill be further amended as follows:

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 6-1.1-27-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) On or before June 20th and December 20th of each year, the county auditor and the county treasurer shall meet in the office of the county auditor. Before each semi-annual meeting, the county auditor shall complete an audit of the county treasurer's monthly reports required under IC 36-2-10-16. In addition, the county auditor shall:

(1) prepare a certificate of settlement on the form prescribed by the state board of accounts; and ~~he shall~~

(2) deliver the certificate of settlement to the county treasurer at least two (2) days before each semi-annual meeting.

(b) If any county treasurer or auditor refuses, neglects, or fails to distribute tax money due to a tax unit on or before the ~~first~~ **fifty-first** day ~~of the month~~ immediately following ~~the appropriate settlement~~ **each property tax due** date ~~prescribed in subsection (a),~~ **under IC 6-1.1-22-9 or IC 6-1.1-37-10, whichever applies,** the county treasurer and auditor shall pay to the taxing unit from the county general fund interest on the taxing unit's undistributed tax money if the county treasurer and auditor invest undistributed tax money in an interest bearing investment. The amount of interest to be paid equals the taxing unit's proportionate share of the actual amount of interest which is received from investments of the undistributed tax money from the ~~second~~ **fifty-second** day ~~of the month~~ immediately following the ~~appropriate settlement~~ **property tax due** date **under IC 6-1.1-22-9 or IC 6-1.1-37-10, whichever applies,** to the date that the tax money is distributed.

SECTION 2. [EFFECTIVE UPON PASSAGE] **(a) The definitions in IC 6-1.1-1 apply throughout this SECTION.**

1. (b) For purposes of this SECTION:

(1) "commissioner" refers to the commissioner of the department of local government finance;

(2) "provisional statement" refers to a provisional property tax statement under subsection (c);

(3) "property taxes" include special assessments;

(4) "reconciling statement" refers to a reconciling property

tax statement under subsection (g); and

(5) "tax liability" includes liability for special assessments and refers to liability for property taxes after the application of all allowed deductions and credits.

(c) With respect to property taxes payable under IC 6-1.1 on assessments determined for the 2002 assessment date, the county treasurer may use a provisional statement under this SECTION if the county auditor fails to deliver the abstract to the county treasurer under IC 6-1.1-22-5 before March 16, 2003. The provisional statement must:

(1) be on a form approved by the state board of accounts;

(2) except as provided in emergency rules adopted under subsection (p), indicate tax liability in the amount of:

(A) fifty percent (50%); or

(B) subject to subsection (o), if the county auditor requests in writing that the commissioner approve a greater percentage not to exceed seventy percent (70%), the percentage approved by the commissioner;

of the tax liability payable in 2002 for the property for which the provisional statement is issued;

(3) indicate:

(A) that the tax liability under the provisional statement is determined as described in subdivision (2); and

(B) that property taxes billed on the provisional statement:

(i) are due and payable in the same manner as property taxes billed on a tax statement under IC 6-1.1-22-8; and

(ii) will be credited against a reconciling statement;

(4) include the following statement:

"Under Indiana law, this provisional statement is sent to property owners in counties that elected to send provisional statements because the county did not complete the general reassessment of real property before March 16, 2003. The statement is due to be paid not later than (insert date). The statement is based on (insert percentage) of your tax liability for taxes payable in 2002. After the general reassessment of real property is complete, you will receive a reconciling statement in the amount of your actual tax liability for taxes payable in 2003, minus the amount you pay under this provisional statement. The due date for taxes under the reconciling statement will be after November 9, 2003.";

(5) indicate liability for:

(A) delinquent:

(i) taxes; and

(ii) special assessments;

(B) penalties; and

(C) interest;

eligible to appear on the tax statement under IC 6-1.1-22-8 for the May, 2003, installment of property taxes; and

(6) include any other information the county treasurer requires.

(d) Property taxes billed on a provisional statement are due:

(1) in one (1) installment on June 15, 2003; or

(2) if the county treasurer requests in writing that the commissioner designate one (1) or two (2) installment dates, on the date or dates designated by the commissioner.

(e) If a provisional tax statement is used:

(1) notice of the provisional statement, including disclosure of the percentage of the tax liability payable in 2002 to be used in determining the tax liability to be indicated on the provisional statement under subsection (c), shall be published one (1) time:

(A) in the form prescribed by the department of local government finance; and

(B) in the manner described in IC 6-1.1-22-4(b); and

(2) IC 6-1.1-22-4 applies to the reconciling statement.

(f) As soon as possible after the receipt of the abstract referred to in subsection (c), the county treasurer shall:

(1) give the notice required by IC 6-1.1-22-4; and

(2) mail or transmit reconciling statements under subsection (g).

(g) Each reconciling statement must indicate:

(1) the actual property tax liability under IC 6-1.1 on the assessment determined for the 2002 assessment date for the property for which the reconciling statement is issued;

(2) the total amount paid under the provisional statement for the property for which the reconciling statement is issued;

(3) if the amount under subdivision (1) exceeds the amount under subdivision (2), that the excess is payable by the taxpayer:

(A) as a final reconciliation of the tax liability; and

(B) not later than:

(i) thirty (30) days after the date of the reconciling statement; or

(ii) if the county treasurer requests in writing that the commissioner designate a later date, the date designated by the commissioner; and

(4) if the amount under subdivision (2) exceeds the amount under subdivision (1), that the taxpayer may claim a refund of the excess under IC 6-1.1-26.

(h) Taxpayers shall make all payments under this SECTION to the county treasurer. The board of county commissioners may authorize the county treasurer to open temporary offices to receive payments under this SECTION in municipalities in the county other than the county seat.

(i) Not later than sixty (60) days after the due date of a provisional or reconciling statement under this SECTION, the county auditor shall:

(1) file with the auditor of state a report of settlement; and

(2) distribute tax collections to the appropriate taxing units.

(j) If a county auditor fails to make a distribution of tax collections under subsection (i), a taxing unit that was to receive a distribution may recover interest on the undistributed tax collections at the same rate and in the same manner that interest may be recovered under IC 6-1.1-27-1(b).

(k) IC 6-1.1-15:

(1) does not apply to a provisional statement; and

(2) applies to a reconciling statement.

(l) IC 6-1.1-37-10 applies to:

(1) a provisional statement; and

(2) a reconciling statement;

in the same manner that IC 6-1.1-37-10 applies to an installment of property taxes.

(m) For purposes of IC 6-1.1-24-1(a)(1):

(1) a provisional statement is considered to be the May 2003 spring installment of property taxes; and

(2) payment on a reconciling statement is considered to be due before the May 2004 installment of property taxes is due.

(n) IC 6-1.1 applies to this SECTION to the extent IC 6-1.1 does not conflict with this SECTION.

(o) The commissioner may approve different percentages for different classes of property in response to a request under subsection (c)(2)(B).

(p) For purposes of a provisional statement under subsection (c), the department of local government finance may adopt emergency rules under IC 4-22-2-37.1 to provide a methodology for a county treasurer to issue provisional statements with respect to real property taking into account new construction of improvements placed on the real property after March 1, 2001, and before March 2, 2002.

(q) This SECTION expires January 1, 2005.

SECTION 3. [EFFECTIVE UPON PASSAGE] (a) The commissioner of the department of local government finance may designate a rule adopted by the department under IC 6-1.1-31-1(b) as an emergency rule.

(b) Except as provided in subsection (c), IC 4-22-2-37.1 applies to a rule referred to in subsection (a).

(c) Subject to subsection (d), a rule referred to in subsection (a) may be extended for three (3) extension periods referred to in IC 4-22-2-37.1(g).

(d) A rule referred to in subsection (a) expires on the earlier of:

(1) the expiration date of the rule under IC 4-22-2-37.1; or

(2) December 31, 2004.

(e) This SECTION expires January 1, 2005.

SECTION 4. [EFFECTIVE UPON PASSAGE] **(a) Notwithstanding IC 20-5-4-8(c) and IC 20-5-4-8(d), the amount of principal of temporary loans maturing under IC 20-5-4-8 on or before December 31, 2005, shall not exceed the lesser of:**

(1) the highest cash flow deficit (not to exceed the amount permitted by Internal Revenue Service arbitrage regulations) estimated by the governing body of the school corporation for the year ending December 31; or

(2) eighty percent (80%) of the total approved budget for the fund for which the loan is made.

(b) If the governing board of a school corporation determines that an emergency exists that requires an extension of the prescribed maturity date for a temporary loan referred to in subsection (a), the prescribed maturity date may be extended for not more than six (6) months after the budget year for which the temporary loan is made if the governing board does the following:

(1) Passes a resolution that contains:

(A) a statement determining that an emergency exists;

(B) a brief description of the grounds for the determination that an emergency exists; and

(C) the date the loan will be repaid that is not more than six (6) months after the budget year for which the temporary loan is made.

(2) Immediately forwards the resolution to:

(A) the state board of accounts; and

(B) the department of local government finance.

(c) This SECTION expires July 1, 2005.

SECTION 5. **An emergency is declared for this act.**

(Reference is to EHB 1219 as reprinted April 1, 2003.)

KUZMAN	LANDSKE
AYRES	LANANE
House Conferees	Senate Conferees

The conference committee report was filed and read a first time.

CONFERENCE COMMITTEE REPORT
ESB 176–1; filed April 23, 2003, at 10:11 a.m.

Mr. Speaker: Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed House Amendments to Engrossed Senate Bill 176 respectfully reports that said two committee have conferred and agreed as follows to wit:

that the Senate recede from its dissent from all House amendments and that the Senate now concur in all House amendments to the bill and that the bill be further amended as follows:

Page 1, delete lines 1 through 17.

Page 2, delete lines 1 through 26.

Renumber all SECTIONS consecutively.

(Reference is to ESB 176 as printed April 7, 2003.)

SERVER	KUZMAN
ROGERS	FRIEND
Senate Conferees	House Conferees

The conference committee report was filed and read a first time.

CONFERENCE COMMITTEE REPORT
ESB 267–1; filed April 23, 2003, at 10:12 a.m.

Mr. Speaker: Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed House Amendments to Engrossed Senate Bill 267 respectfully reports that said two committee have conferred and agreed as follows to wit:

that the Senate recede from its dissent from all House amendments and that the Senate now concur in all House amendments to the bill and that the bill be further amended as follows:

Page 2, delete lines 41 through 42.

Delete pages 3 through 5.

(Reference is to ESB 267 as printed April 8, 2003.)

SKILLMAN	OXLEY
R. YOUNG	THOMAS
Senate Conferees	House Conferees

The conference committee report was filed and read a first time.

CONFERENCE COMMITTEE REPORT
ESB 201–1; filed April 23, 2003, at 10:13 a.m.

Mr. Speaker: Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed House Amendments to Engrossed Senate Bill 201 respectfully reports that said two committee have conferred and agreed as follows to wit:

that the Senate recede from its dissent from all House amendments and that the Senate now concur in all House amendments to the bill and that the bill be further amended as follows:

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 36-7-4-1003 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1003. (a) Each decision of the legislative body under section 918.6 of this chapter or the board of zoning appeals is subject to review by certiorari. Each person aggrieved by a decision of the board of zoning appeals or the legislative body may ~~present, to~~ **file with** the circuit or superior court of the county in which the premises affected are located, a verified petition setting forth that the decision is illegal in whole or in part and specifying the grounds of the illegality. No change of venue from the county in which the premises affected are located may be had in any cause arising under this section.

(b) ADVISORY. The person shall ~~present~~ **file** the petition ~~to~~ **with** the court within thirty (30) days after the date of that decision of the board of zoning appeals.

(c) AREA. The person shall ~~present~~ **file** the petition ~~to~~ **with** the court within thirty (30) days after the ~~entry~~ **date** of that decision of the board of zoning appeals.

(d) METRO. The person shall ~~present~~ **file** the petition ~~to~~ **with** the court after the expiration of the period within which an official designated by the metropolitan development commission may file an appeal under section 922 of this chapter but within thirty (30) days after the date of that decision of the board of zoning appeals. However, if the official files an appeal, then only the decision of the metropolitan development commission sitting as a board of zoning appeals is subject to review by certiorari, in accordance with this section. The official or department of metropolitan development may not seek review by certiorari of a decision of a board of zoning appeals or the commission sitting as a board of zoning appeals.

SECTION 2. IC 36-7-4-1005 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1005. (a) On filing a petition for a writ of certiorari with the clerk of the court, the petitioner **for the writ of certiorari shall give notice of the petition as follows:**

(1) If the petitioner is the applicant or petitioner for the use, special exception, or variance, the petitioner shall have a notice served by the sheriff of the county on each adverse party as shown by the record of the case in the office of the board of zoning appeals.

(2) If the petitioner is not the applicant for the use, special exception, or variance and is a person aggrieved by the decision of a board of zoning appeals as set forth in section 1003 of this chapter, the petitioner shall have a notice served by the sheriff of the county on:

(A) each applicant or petitioner for the use, special exception, or variance; and

(B) each owner of the property that is the subject of the application or petition for the use, special exception, or variance.

The service of the notice by the sheriff on the chairman or secretary of the board of zoning appeals constitutes notice of the filing of the petition to the board of zoning appeals, to the municipality or county, and to any municipal or county official or board charged with the enforcement of the zoning ordinance. No other summons or notice is necessary when filing a petition.

(b) An adverse party under this section is any property owner

whose interests are opposed to the petitioner for the writ of certiorari and who appeared at the hearing before the board of zoning appeals either in person or by a written remonstrance or other document that is part of the hearing record. If the petitioner was an unsuccessful appellant in the administrative appeal, or an unsuccessful petitioner or applicant for a variance, special exception, or special or conditional use, and the record shows a written remonstrance or other document opposing the interest of the petitioner that contains more than three (3) names, the petitioner shall have notice served on the three (3) property owners whose names appear first on the remonstrance or document. Notice to the other persons named is not required.

(c) Notice given under subsection (a) must state:

(1) that a petition for a writ of certiorari, asking for a review of the decision of the board of zoning appeals, has been filed in the court;

(2) the premises affected; and

(3) the date of the decision.

(d) An adverse party who is entitled to notice of a petition for writ of certiorari under subsection (a) is not required to be named as a party to the petition for writ of certiorari.

SECTION 3. IC 36-7-4-1006 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1006. ~~On presentation of a petition for a writ of certiorari,~~ The court shall direct the board of zoning appeals, within twenty (20) days after the date ~~of~~ the petition **is filed,** to show cause why a writ of certiorari should not issue. If the board fails to show to the satisfaction of the court that a writ should not issue, then the court may allow a writ of certiorari directed to the board. The writ must prescribe the time in which a return shall be made to it. This time must not be less than ten (10) days from the date of issuance of the writ, and the court may extend the time.

SECTION 4. IC 36-7-4-1210.6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 1210.6. (a) ADVISORY. This section applies to an advisory plan commission that is:**

(1) created through a joinder agreement; and

(2) composed of nine (9) members, some of whom are appointed from a legislative branch of local government.

(b) Notwithstanding any other provision, if:

(1) there is a vacancy in the membership of a plan commission that is required by statute to be filled by a member of a legislative body of local government; and

(2) no member of the legislative body of local government will accept an appointment to fill the vacancy;

the appointing authority may appoint a person from the community who is not an elected official to serve on the advisory plan commission for a term of one (1) year.

(c) The person appointed under subsection (b) may be reappointed to successive terms.

(Reference is to ESB 201 as reprinted April 11, 2003.)

CLARK	STEVENSON
DEMBOWSKI	HINKLE
Senate Conferees	House Conferees

The conference committee report was filed and read a first time.

CONFERENCE COMMITTEE REPORT
ESB 242–1; filed April 23, 2003, at 10:14 a.m.

Mr. Speaker: Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed House Amendments to Engrossed Senate Bill 242 respectfully reports that said two committee have conferred and agreed as follows to wit:

that the Senate recede from its dissent from all House amendments and that the Senate now concur in all House amendments to the bill and that the bill be further amended as follows:

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 5-14-3-4, AS AMENDED BY P.L.1-2002, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. (a) The following public records are excepted from section 3 of this chapter and may not be disclosed by a public agency, unless access to the records is specifically required by a state or federal statute or is ordered by a court under the rules of discovery:

(1) Those declared confidential by state statute.

(2) Those declared confidential by rule adopted by a public agency under specific authority to classify public records as confidential granted to the public agency by statute.

(3) Those required to be kept confidential by federal law.

(4) Records containing trade secrets.

(5) Confidential financial information obtained, upon request, from a person. However, this does not include information that is filed with or received by a public agency pursuant to state statute.

(6) Information concerning research, including actual research documents, conducted under the auspices of an institution of higher education, including information:

(A) concerning any negotiations made with respect to the research; and

(B) received from another party involved in the research.

(7) Grade transcripts and license examination scores obtained as part of a licensure process.

(8) Those declared confidential by or under rules adopted by the supreme court of Indiana.

(9) Patient medical records and charts created by a provider, unless the patient gives written consent under IC 16-39.

(10) Application information declared confidential by the twenty-first century research and technology fund board under IC 4-4-5.1.

(11) The following personal information concerning a customer of a municipally owned utility (as defined in IC 8-1-2-1):

(A) Telephone number.

(B) Social Security number.

(C) Address.

(12) A photograph, a video recording, or an audio recording of an autopsy, except as provided in IC 36-2-14-10.

(b) Except as otherwise provided by subsection (a), the following public records shall be excepted from section 3 of this chapter at the discretion of a public agency:

(1) Investigatory records of law enforcement agencies. However, certain law enforcement records must be made available for inspection and copying as provided in section 5 of this chapter.

(2) The work product of an attorney representing, pursuant to state employment or an appointment by a public agency:

(A) a public agency;

(B) the state; or

(C) an individual.

(3) Test questions, scoring keys, and other examination data used in administering a licensing examination, examination for employment, or academic examination before the examination is given or if it is to be given again.

(4) Scores of tests if the person is identified by name and has not consented to the release of his scores.

(5) The following:

(A) Records relating to negotiations between the department of commerce, the Indiana development finance authority, the film commission, the Indiana business modernization and technology corporation, or economic development commissions with industrial, research, or commercial prospects, if the records are created while negotiations are in progress.

(B) Notwithstanding clause (A), the terms of the final offer of public financial resources communicated by the department of commerce, the Indiana development finance authority, the Indiana film commission, the Indiana business modernization and technology corporation, or economic development commissions to an industrial, a research, or a commercial prospect shall be available for inspection and copying under section 3 of this chapter after negotiations with that prospect have terminated.

(C) When disclosing a final offer under clause (B), the department of commerce shall certify that the information

being disclosed accurately and completely represents the terms of the final offer.

(6) Records that are intra-agency or interagency advisory or deliberative material, including material developed by a private contractor under a contract with a public agency, that are expressions of opinion or are of a speculative nature, and that are communicated for the purpose of decision making.

(7) Diaries, journals, or other personal notes serving as the functional equivalent of a diary or journal.

(8) Personnel files of public employees and files of applicants for public employment, except for:

(A) the name, compensation, job title, business address, business telephone number, job description, education and training background, previous work experience, or dates of first and last employment of present or former officers or employees of the agency;

(B) information relating to the status of any formal charges against the employee; and

(C) information concerning disciplinary actions in which final action has been taken and that resulted in the employee being disciplined or discharged.

However, all personnel file information shall be made available to the affected employee or his representative. This subdivision does not apply to disclosure of personnel information generally on all employees or for groups of employees without the request being particularized by employee name.

(9) Minutes or records of hospital medical staff meetings.

(10) Administrative or technical information that would jeopardize a recordkeeping or security system.

(11) Computer programs, computer codes, computer filing systems, and other software that are owned by the public agency or entrusted to it and portions of electronic maps entrusted to a public agency by a utility.

(12) Records specifically prepared for discussion or developed during discussion in an executive session under IC 5-14-1.5-6.1. However, this subdivision does not apply to that information required to be available for inspection and copying under subdivision (8).

(13) The work product of the legislative services agency under personnel rules approved by the legislative council.

(14) The work product of individual members and the partisan staffs of the general assembly.

(15) The identity of a donor of a gift made to a public agency if:

(A) the donor requires nondisclosure of his identity as a condition of making the gift; or

(B) after the gift is made, the donor or a member of the donor's family requests nondisclosure.

(16) Library or archival records:

(A) which can be used to identify any library patron; or

(B) deposited with or acquired by a library upon a condition that the records be disclosed only:

(i) to qualified researchers;

(ii) after the passing of a period of years that is specified in the documents under which the deposit or acquisition is made; or

(iii) after the death of persons specified at the time of the acquisition or deposit.

However, nothing in this subdivision shall limit or affect contracts entered into by the Indiana state library pursuant to IC 4-1-6-8.

(17) The identity of any person who contacts the bureau of motor vehicles concerning the ability of a driver to operate a motor vehicle safely and the medical records and evaluations made by the bureau of motor vehicles staff or members of the driver licensing **medical** advisory ~~committee.~~ **board.** However, upon written request to the commissioner of the bureau of motor vehicles, the driver must be given copies of the driver's medical records and evaluations that concern the driver.

(18) School safety and security measures, plans, and systems, including emergency preparedness plans developed under 511 IAC 6.1-2-2.5.

(c) Notwithstanding section 3 of this chapter, a public agency is not required to create or provide copies of lists of names and addresses, unless the public agency is required to publish such lists and disseminate them to the public pursuant to statute. However, if a public agency has created a list of names and addresses, it must permit a person to inspect and make memoranda abstracts from the lists unless access to the lists is prohibited by law. The following lists of names and addresses may not be disclosed by public agencies to commercial entities for commercial purposes and may not be used by commercial entities for commercial purposes:

(1) A list of employees of a public agency.

(2) A list of persons attending conferences or meetings at a state institution of higher education or of persons involved in programs or activities conducted or supervised by the state institution of higher education.

(3) A list of students who are enrolled in a public school corporation if the governing body of the public school corporation adopts a policy:

(A) prohibiting the disclosure of the list to commercial entities for commercial purposes; or

(B) specifying the classes or categories of commercial entities to which the list may not be disclosed or by which the list may not be used for commercial purposes.

A policy adopted under subdivision (3) must be uniform and may not discriminate among similarly situated commercial entities.

(d) Nothing contained in subsection (b) shall limit or affect the right of a person to inspect and copy a public record required or directed to be made by any statute or by any rule of a public agency.

(e) Notwithstanding any other law, a public record that is classified as confidential, other than a record concerning an adoption, shall be made available for inspection and copying seventy-five (75) years after the creation of that record.

(f) Notwithstanding subsection (e) and section 7 of this chapter:

(1) public records subject to IC 5-15 may be destroyed only in accordance with record retention schedules under IC 5-15; or

(2) public records not subject to IC 5-15 may be destroyed in the ordinary course of business.

SECTION 2. IC 8-2.1-24-18, AS AMENDED BY SEA 474-2003, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 18. (a) 49 CFR Parts 382 through 387, 390 through 393, and 395 through 398 is incorporated into Indiana law by reference, and, except as provided in subsections (d), (e), (f), and (g), must be complied with by an interstate and intrastate motor carrier of persons or property throughout Indiana. Intrastate motor carriers subject to compliance reviews under 49 CFR 385 shall be selected according to criteria determined by the superintendent which must include but is not limited to factors such as previous history of violations found in roadside compliance checks and other recorded violations. However, the provisions of 49 CFR 395 that regulate the hours of service of drivers, including requirements for the maintenance of logs, do not apply to a driver of a truck that is registered by the bureau of motor vehicles and used as a farm truck under IC 9-18, or a vehicle operated in intrastate construction or construction related service, or the restoration of public utility services interrupted by an emergency. Except as provided in subsection (I), intrastate motor carriers not operating under authority issued by the United States Department of Transportation shall comply with the requirements of 49 CFR 390.21(b)(3) by registering with the department of state revenue as an intrastate motor carrier and displaying the certification number issued by the department of state revenue preceded by the letters "IN". Except as provided in subsection (I), all other requirements of 49 CFR 390.21 apply equally to interstate and intrastate motor carriers.

(b) 49 CFR 107 subpart (F) and subpart (G), 171 through 173, 177 through 178, and 180, is incorporated into Indiana law by reference, and every:

(1) private carrier;

(2) common carrier;

(3) contract carrier;

(4) motor carrier of property, intrastate;

(5) hazardous material shipper; and

(6) carrier otherwise exempt under section 3 of this chapter;

must comply with the federal regulations incorporated under this subsection, whether engaged in interstate or intrastate commerce.

(c) Notwithstanding subsection (b), nonspecification bulk and nonbulk packaging, including cargo tank motor vehicles, may be used only if all the following conditions exist:

(1) The maximum capacity of the vehicle is less than three thousand five hundred (3,500) gallons.

(2) The shipment of goods is limited to intrastate commerce.

(3) The vehicle is used only for the purpose of transporting fuel oil, kerosene, diesel fuel, gasoline, gasohol, or any combination of these substances.

All additional federal standards for the safe transportation of hazardous materials apply until July 1, 2000. After June 30, 2000, the maintenance, inspection, and marking requirements of 49 CFR 173.8 and Part 180 are applicable. In accordance with federal hazardous materials regulations, new or additional nonspecification cargo tank motor vehicles may not be placed in service under this subsection after June 30, 1998.

(d) For the purpose of enforcing this section, only:

(1) a state police officer or state police motor carrier inspector who:

(A) has successfully completed a course of instruction approved by the Federal Highway Administration; and

(B) maintains an acceptable competency level as established by the state police department; or

(2) an employee of a law enforcement agency who:

(A) before January 1, 1991, has successfully completed a course of instruction approved by the Federal Highway Administration; and

(B) maintains an acceptable competency level as established by the state police department;

on the enforcement of 49 CFR, may, upon demand, inspect the books, accounts, papers, records, memoranda, equipment, and premises of any carrier, including a carrier exempt under section 3 of this chapter.

(e) A person hired before September 1, 1985, who operates a motor vehicle intrastate incidentally to the person's normal employment duties and who is not employed as a chauffeur (as defined in IC 9-13-2-21(a)) is exempt from 49 CFR 391 as incorporated by this section.

(f) Notwithstanding any provision of 49 CFR 391 to the contrary, a person at least eighteen (18) years of age and less than twenty-one (21) years of age may be employed as a driver to operate a commercial motor vehicle intrastate. However, a person employed under this subsection is not exempt from any other provision of 49 CFR 391.

(g) Notwithstanding subsection (b), the following provisions of 49 CFR do not apply to private carriers of property operated only in intrastate commerce or any carriers of property operated only in intrastate commerce while employed in construction or construction related service:

(1) Subpart 391.41(b)(3) as it applies to physical qualifications of a driver who has applied for or holds a commercial driver's license (as defined in IC 9-13-2-29), diagnosed as an insulin dependent diabetic, if the driver has applied for and been granted an intrastate medical waiver by the bureau of motor vehicles completed and signed by a certified endocrinologist or the driver's treating physician attesting that the driver:

(A) is otherwise physically qualified under Subpart 391.41 to operate a motor vehicle and is not likely to suffer any diminution in driving ability due to the driver's diabetic condition;

(B) is free of severe hypoglycemia or hypoglycemia unawareness and has had less than one (1) documented, symptomatic hypoglycemic reaction per month;

(C) has demonstrated the ability and willingness to properly monitor and manage the driver's diabetic condition;

(D) has agreed to and, to the endocrinologist's or treating physician's knowledge, has carried a source of rapidly absorbable glucose at all times while driving a motor vehicle, has self monitored blood glucose levels one (1) hour before driving and at least once every four (4) hours while driving or on duty before driving using a portable glucose monitoring device equipped with a computerized memory; and

(E) has submitted the blood glucose logs from the monitoring device to the endocrinologist or treating physician at the time of the annual medical examination.

A copy of the blood glucose logs shall be filed along with the annual statement from the endocrinologist or treating physician with the bureau of motor vehicles for review by the driver licensing **medical** advisory ~~committee~~ **board** established under IC 9-14-4. A copy of the annual statement shall also be provided to the driver's employer for retention in the driver's qualification file, and a copy shall be retained and held by the driver while driving for presentation to an authorized federal, state, or local law enforcement official.

(2) Subpart 396.9 as it applies to inspection of vehicles carrying or loaded with a perishable product. However, this exemption does not prohibit a law enforcement officer from stopping these vehicles for an obvious violation that poses an imminent threat of an accident or incident. The exemption is not intended to include refrigerated vehicles loaded with perishables when the refrigeration unit is working.

(3) Subpart 396.11 as it applies to driver vehicle inspection reports.

(4) Subpart 396.13 as it applies to driver inspection.

(h) For purposes of 49 CFR 395.1(l), "planting and harvesting season" refers to the period between January 1 and December 31 of each year. The intrastate commerce exception set forth in 49 CFR 395.1(l), as it applies to the transportation of agricultural commodities and farm supplies, is restricted to single vehicles and cargo tank motor vehicles with a capacity of not more than five thousand four hundred (5,400) gallons.

(i) The requirements of 49 CFR 390.21 do not apply to an intrastate carrier or a guest operator not engaged in interstate commerce and operating a motor vehicle as a farm vehicle in connection with agricultural pursuits usual and normal to the user's farming operation or for personal purposes unless the vehicle is operated either part time or incidentally in the conduct of a commercial enterprise.

(j) The superintendent of state police may adopt rules under IC 4-22-2 governing the parts and subparts of 49 CFR incorporated by reference under this section.

SECTION 3. IC 9-14-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. The commissioner ~~may~~ **shall** create a driver licensing **medical** advisory ~~committee.~~ **board.**

SECTION 4. IC 9-14-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. The ~~committee~~ **board** consists of five (5) members, **of whom:**

(1) two (2) members must have unlimited licenses to practice medicine in Indiana, **including one (1) neurologist with expertise in epilepsy;** and

(2) one (1) member must be licensed as an optometrist.

The ~~committee~~ **board** members serve at the pleasure of the commissioner.

SECTION 5. IC 9-14-4-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. A ~~committee~~ **board** member is entitled to be reimbursed for travel expenses necessarily incurred in the performance of the member's duties and is also entitled to receive a salary per diem as prescribed by the budget agency.

SECTION 6. IC 9-14-4-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. The ~~committee~~ **board** shall provide the commissioner with ~~technical resources to assist~~ **assistance** in the administration of Indiana driver licensing laws, including:

(1) providing ~~advice, technical knowledge, and~~ guidance to the commissioner in the area of licensing drivers with health or other problems that may adversely affect a driver's ability to operate a vehicle safely;

(2) recommending factors to be used in determining qualifications and ability for issuance and retention of a

driver's license; and

(3) recommending and participating in the review of license suspension, restriction, or revocation appeal procedures.

SECTION 7. IC 9-14-4-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. The commissioner may request assistance from any of the ~~committee~~ **board** members at any time.

SECTION 8. IC 9-14-4-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. A member of the ~~committee~~ **board** is exempt from a civil action arising or thought to arise from an action taken in good faith as a member of the ~~committee.~~ **board.**

SECTION 9. IC 9-14-4-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. The evaluation of medical reports for the commissioner by a member of the ~~committee~~ **board** does not constitute the practice of medicine. This chapter does not authorize a person to engage in the practice of the healing arts or the practice of medicine as defined by law.

SECTION 10. IC 9-24-11-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. The bureau, when issuing a permit or license under this article, may, whenever good cause appears, impose restrictions suitable to the licensee's or permittee's driving ability with respect to the type of or special mechanical control devices required on a motor vehicle that the licensee operates. The bureau may impose other restrictions applicable to the licensee or permittee that the bureau determines is appropriate to assure the safe operation of a motor vehicle by the licensee or permittee, **including a requirement to take prescribed medication.** When the restrictions are imposed, the bureau may issue either a special restricted license or shall set forth the restrictions upon the usual license form.

SECTION 11. IC 9-24-11-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8. (a) Except as provided in ~~subsection~~ **subsections** (b) **and (c),** a person who violates this chapter commits a Class C infraction.

(b) A person who:

(1) has been issued a permit or license on which there is a printed or stamped restriction as provided under section 7 of this chapter; and

(2) operates a motor vehicle in violation of the restriction;

commits a Class C misdemeanor. The license of a person who violates this subsection may be suspended in the manner provided for the suspension or revocation of an operator's license.

(c) A person who causes serious bodily injury to or the death of another person when operating a motor vehicle after knowingly or intentionally failing to take prescribed medication, the taking of which was a condition of the issuance of the operator's restricted license under section 7 of this chapter, commits a Class A misdemeanor. However, the offense is a Class D felony if, within the five (5) years preceding the commission of the offense, the person had a prior unrelated conviction under this subsection.

(d) A person who violates subsection (c) commits a separate offense for each person whose serious bodily injury or death is caused by the violation of subsection (c).

SECTION 12. IC 9-24-11-10 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 10. (a) In addition to any other penalty imposed for a conviction under section 8(c) of this chapter, the court shall recommend that the person's driving privileges be suspended for a fixed period of at least ninety (90) days and not more than two (2) years.**

(b) The court shall specify:

(1) the length of the fixed period of suspension; and

(2) the date the fixed period of suspension begins;

whenever the court makes a recommendation under subsection (a).

SECTION 13. IC 9-24-11-11 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 11. The bureau shall, upon receiving a record of conviction of a person under section 8(c) of this chapter, set a period of suspension for a fixed period of at least ninety (90) days and not more than two (2) years. The bureau shall fix this period in accordance with the recommendation of the court that entered the conviction, as provided in section 10 of this chapter.**

SECTION 14. IC 9-24-15-1, AS AMENDED BY SEA 474-2003, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. (a) Except as provided in subsection (b), this chapter does not apply to the following:

(1) A suspension of a driving license upon the failure of an individual to file security or proof of financial responsibility following an accident as required by or upon the failure of any individual to satisfy a judgment for damages arising out of the use of a motor vehicle on a public highway as provided for in IC 9-25.

(2) When suspension is by reason of:

(A) physical, mental, or emotional instability;

(B) having caused serious bodily injury to or the death of another person when operating a motor vehicle after knowingly or intentionally failing to take prescribed medication, the taking of which was a condition of the issuance of the operator's restricted driver's license; or ~~if~~

(C) the applicant has been convicted of involuntary manslaughter or reckless homicide as a result of an automobile accident.

(3) A suspension of the license of an applicant whose license has been previously suspended.

(4) A suspension of the license of an applicant who has failed to use timely appeal procedures provided by the bureau.

(5) After June 30, 2005, a suspension of the license of an applicant whose commercial driver's license has been disqualified under 49 CFR 383.51 or other applicable federal or state law, including an alcohol or a controlled substance conviction under IC 9-30-5-4 or 49 CFR 391.15.

(b) A court may grant a petition for a restricted driving permit from an individual who:

(1) received a request for evidence of financial responsibility after:

(A) an accident under IC 9-25-5-2; or

(B) a conviction of a motor vehicle violation under IC 9-25-9-1; and

(2) failed to provide proof of financial responsibility under IC 9-25-6;

if the individual shows by a preponderance of the evidence that the failure to maintain financial responsibility was inadvertent.

SECTION 15. IC 34-30-2-27 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 27. IC 9-14-4-6 (Concerning members of the driver licensing **medical** advisory ~~committee).~~ **board).**

SECTION 16. [EFFECTIVE JULY 1, 2003] **(a) After June 30, 2003, any reference in a statute or rule referring to the driver licensing advisory committee is considered a reference to the driver licensing medical advisory board.**

(b) On July 1, 2003, the driver licensing medical advisory board becomes the owner of all the personal property and assets and assumes the obligations and liabilities of the driver licensing advisory committee, as abolished by this act.

(Reference is to ESB 242 as printed April 4, 2003.)

LANDSKE	CHENEY
DEMBOWSKI	KOCH
Senate Conferees	House Conferees

The conference committee report was filed and read a first time.

CONFERENCE COMMITTEE REPORT
ESB 475–1; filed April 23, 2003, at 10:14 a.m.

Mr. Speaker: Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed House Amendments to Engrossed Senate Bill 475 respectfully reports that said two committee have conferred and agreed as follows to wit:

that the Senate recede from its dissent from all House amendments and that the Senate now concur in all House amendments to the

bill and that the bill be further amended as follows:

Page 4, delete lines 22 through 29.

Renumber all SECTIONS consecutively.

(Reference is to ESB 475 as reprinted April 8, 2003.)

C. LAWSON	BOTTORFF
BRODEN	FRIEND
Senate Conferees	House Conferees

The conference committee report was filed and read a first time.

CONFERENCE COMMITTEE REPORT
ESB 523–1; filed April 23, 2003, at 10:15 A.m.

Mr. Speaker: Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed House Amendments to Engrossed Senate Bill 523 respectfully reports that said two committee have conferred and agreed as follows to wit:

that the Senate recede from its dissent from all House amendments and that the Senate now concur in all House amendments to the bill and that the bill be further amended as follows:

Delete the title and insert the following:

A BILL FOR AN ACT concerning pensions.

Delete everything after the enacting clause and insert the following:

SECTION 1. [EFFECTIVE JULY 1, 2003] **(a) This SECTION applies to a member of the 1977 police officers' and firefighters' pension and disability fund (1977 fund) who:**

(1) first became a member of the 1977 fund after December 31, 1993, and before October 1, 1996;

(2) was at least thirty-six (36) years of age at the time the member first became a member of the 1977 fund; and

(3) will not accrue twenty (20) years of service credit in the 1977 fund before the member reaches the mandatory retirement age established by the member's employer.

(b) In addition to the service credit that a member earns through active service, before a member retires the member may purchase the additional amount of service credit needed for the member to retire with a full unreduced benefit by making contributions to the 1977 fund equal to the product of the following:

(1) The salary of a first class patrolman or firefighter, whichever is applicable, at the time the member makes the contribution.

(2) Twenty-seven percent (27%).

(3) The number of years of service credit the member intends to purchase.

(c) The following apply to the purchase of service credit under this SECTION:

(1) The service credit allowed is limited to the amount necessary, when added to the member's active service, for the member to accrue twenty (20) years of service credit in the 1977 fund by the time the member reaches the mandatory retirement age established by the member's employer.

(2) The member may pay the amount determined in subsection (b) as:

(A) a lump sum; or

(B) a series of payments determined by the public employees' retirement fund (PERF) board, not to exceed five (5) annual payments, plus interest over the period of the payments at a rate determined by the actuary for the 1977 fund.

(3) A member may not use the service credit unless the member has made all payments required for the purchase of the service credit.

(4) To the extent permitted by IC 36-8-8-18, a member may use:

(A) a rollover distribution; or

(B) a trustee to trustee transfer;

to purchase service credit under this SECTION.

(d) If a member terminates employment before satisfying the eligibility requirements necessary to receive a monthly benefit under IC 36-8-8, the PERF board shall return the purchase amount, plus accumulated interest, in accordance with IC 36-8-8-8.

(e) A member's employer may adopt an ordinance to pay all or part of the member's contributions required for the purchase of service under this SECTION.

(f) This SECTION expires December 31, 2007.

(Reference is to ESB 523 as printed April 3, 2003.)

SERVER	AVERY
L. LUTZ	BUELL
Senate Conferees	House Conferees

The conference committee report was filed and read a first time.

CONFERENCE COMMITTEE REPORT
ESB 57–1; filed April 23, 2003, at 10:17 a.m.

Mr. Speaker: Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed House Amendments to Engrossed Senate Bill 57 respectfully reports that said two committee have conferred and agreed as follows to wit:

that the Senate recede from its dissent from all House amendments and that the Senate now concur in all House amendments to the bill and that the bill be further amended as follows:

Delete the title and insert the following:

A BILL FOR AN ACT concerning human services.

Delete everything after the enacting clause and insert the following:

SECTION 1. [EFFECTIVE JULY 1, 2003] **(a) As used in this SECTION, "committee" refers to a committee appointed by the chairman of the legislative council under IC 2-5-21-10(a).**

(b) As used in this SECTION, "subcommittee" refers to the legislative evaluation and oversight policy subcommittee established by IC 2-5-21-6.

(c) Notwithstanding IC 2-5-21-10(c), beginning in 2003, the subcommittee shall direct the staff in performing an audit of the organizational structure of the office of the secretary of family and social services established by IC 12-8-1-1 (referred to in this SECTION as "the office") and the office's relationship with other agencies that provide health and human services programs. The subcommittee may not direct the staff to perform an audit of another agency during the time the staff is performing the audit required under this SECTION.

(d) The office shall cooperate with the subcommittee and the subcommittee's staff, including providing the subcommittee with information pertaining to the structure of the office. The office shall provide the subcommittee with the following information:

(1) The organizational structure of the office, including the office's line of command and the number of employees.

(2) A description of the interaction of programs within the office.

(3) A description of the interaction of programs that are operated by the office in conjunction with another state agency.

(4) Concerning contracted services between the office and another entity after June 30, 2000:

(A) a list of contractors;

(B) a copy of the contract, if any; and

(C) contract expenditures.

(5) A description of the communication channel used within the office.

(6) Any information described in IC 2-5-21-13.

(7) Any other information the subcommittee determines is relevant for the study under this SECTION.

(e) Beginning in 2004, the chairman of the legislative council shall appoint a committee under IC 2-5-21-10(a) to perform the duties described in IC 2-5-21-14.

(f) This SECTION expires December 31, 2005.

(Reference is to ESB 57 as printed April 2, 2003.)

SERVER	C. BROWN
SIMPSON	BECKER
Senate Conferees	House Conferees

The conference committee report was filed and read a first time.

CONFERENCE COMMITTEE REPORT
ESB 494–1; filed April 23, 2003, at 10:18 a.m.

Mr. Speaker: Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed House Amendments to Engrossed Senate Bill 494 respectfully reports that said two committee have conferred and agreed as follows to wit:

that the Senate recede from its dissent from all House amendments and that the Senate now concur in all House amendments to the bill and that the bill be further amended as follows:

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 6-2.3-4-3, AS ADDED BY P.L.192-2002(ss), SECTION 47, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003 (RETROACTIVE)]: Sec. 3. Gross receipts received by:

(1) a conservancy district established under IC 14-33-20 or IC 13-3-4 (before its repeal);

(2) a regional water, sewage, or solid waste district established under IC 13-26 or IC 13-3-2 (before its repeal);

(3) a nonprofit corporation formed solely for the purpose of supplying water to the public;

(4) a county solid waste management district or a joint solid waste management district established under IC 13-21 or IC 13-9.5-2 (before its repeal);

(5) a nonprofit corporation formed for the purpose of providing a combination of:

(A) water; and

(B) sewer and sewage service;

to the public; ~~or~~

(6) a county onsite waste management district established under IC 36-11; **or**

(7) a political subdivision for sewer and sewage service;

are exempt from the utility receipts tax.

SECTION 2. **An emergency is declared for this act.**

(Reference is to ESB 494 as reprinted April 1, 2003.)

SERVER	AVERY
LANANE	BECKER
Senate Conferees	House Conferees

The conference committee report was filed and read a first time.

CONFERENCE COMMITTEE REPORT
ESB 169–1; filed April 23, 2003, at 10:20 a.m.

Mr. Speaker: Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed House Amendments to Engrossed Senate Bill 169 respectfully reports that said two committee have conferred and agreed as follows to wit:

that the Senate recede from its dissent from all House amendments and that the Senate now concur in all House amendments to the bill and that the bill be further amended as follows:

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 5-14-1.5-5, AS AMENDED BY P.L.90-2002, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. (a) Public notice of the date, time, and place of any meetings, executive sessions, or of any rescheduled or reconvened meeting, shall be given at least forty-eight (48) hours (excluding Saturdays, Sundays, and legal holidays) before the meeting. This requirement does not apply to reconvened meetings (not including executive sessions) where announcement of the date, time, and place of the reconvened meeting is made at the original meeting and recorded in the memoranda and minutes thereof, and there is no change in the agenda.

(b) Public notice shall be given by the governing body of a public agency by:

(1) posting a copy of the notice at the principal office of the public agency holding the meeting or, if no such office exists, at the building where the meeting is to be held; and

(2) ~~depositing in the United States mail with postage prepaid or by~~ delivering notice to all news media which deliver by January 1 an annual written request for such notices for the next succeeding calendar year to the governing body of the public agency. **The governing body shall give notice by one (1) of the following methods:**

(A) Depositing the notice in the United States mail with postage prepaid.

(B) Transmitting the notice by electronic mail.

(C) Transmitting the notice by facsimile (fax).

If a governing body comes into existence after January 1, it shall comply with this subdivision upon receipt of a written request for notice.

In addition, a state agency (as defined in IC 4-13-1-1) shall provide electronic access to the notice through the computer gateway administered by the intelenet commission under IC 5-21-2.

(c) Notice of regular meetings need be given only once each year, except that an additional notice shall be given where the date, time, or place of a regular meeting or meetings is changed. This subsection does not apply to executive sessions.

(d) If a meeting is called to deal with an emergency involving actual or threatened injury to person or property, or actual or threatened disruption of the governmental activity under the jurisdiction of the public agency by any event, then the time requirements of notice under this section shall not apply, but:

(1) news media which have requested notice of meetings must be given the same notice as is given to the members of the governing body; and

(2) the public must be notified by posting a copy of the notice according to this section.

(e) This section shall not apply where notice by publication is required by statute, ordinance, rule, or regulation.

(f) This section shall not apply to:

(1) the department of local government finance, the Indiana board of tax review, or any other governing body which meets in continuous session, except that this section applies to meetings of these governing bodies which are required by or held pursuant to statute, ordinance, rule, or regulation; or

(2) the executive of a county or the legislative body of a town if the meetings are held solely to receive information or recommendations in order to carry out administrative functions, to carry out administrative functions, or confer with staff members on matters relating to the internal management of the unit. "Administrative functions" do not include the awarding of contracts, the entering into contracts, or any other action creating an obligation or otherwise binding a county or town.

(g) This section does not apply to the general assembly.

(h) Notice has not been given in accordance with this section if a governing body of a public agency convenes a meeting at a time so unreasonably departing from the time stated in its public notice that the public is misled or substantially deprived of the opportunity to attend, observe, and record the meeting.

SECTION 2. IC 5-14-1.5-6.1, AS AMENDED BY P.L.37-2000, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6.1. (a) As used in this section, "public official" means a person:

(1) who is a member of a governing body of a public agency; or

(2) whose tenure and compensation are fixed by law and who executes an oath.

(b) Executive sessions may be held only in the following instances:

(1) Where authorized by federal or state statute.

(2) For discussion of strategy with respect to any of the following:

(A) Collective bargaining.

(B) Initiation of litigation or litigation that is either pending or has been threatened specifically in writing.

(C) The implementation of security systems.

(D) The purchase or lease of real property by the governing body up to the time a contract or option to purchase or lease is executed by the parties.

However, all such strategy discussions must be necessary for competitive or bargaining reasons and may not include competitive or bargaining adversaries.

(3) For discussion of the assessment, design, and implementation of school safety and security measures, plans,

and systems.

(4) Interviews with industrial or commercial prospects or agents of industrial or commercial prospects by the department of commerce, the Indiana development finance authority, the film commission, the Indiana business modernization and technology corporation, or economic development commissions.

(5) To receive information about and interview prospective employees.

(6) With respect to any individual over whom the governing body has jurisdiction:

(A) to receive information concerning the individual's alleged misconduct; and

(B) to discuss, before a determination, the individual's status as an employee, a student, or an independent contractor who is:

(i) a physician; **or**

(ii) a school bus driver.

(7) For discussion of records classified as confidential by state or federal statute.

(8) To discuss before a placement decision an individual student's abilities, past performance, behavior, and needs.

(9) To discuss a job performance evaluation of individual employees. This subdivision does not apply to a discussion of the salary, compensation, or benefits of employees during a budget process.

(10) When considering the appointment of a public official, to do the following:

(A) Develop a list of prospective appointees.

(B) Consider applications.

(C) Make one (1) initial exclusion of prospective appointees from further consideration.

Notwithstanding IC 5-14-3-4(b)(12), a governing body may release and shall make available for inspection and copying in accordance with IC 5-14-3-3 identifying information concerning prospective appointees not initially excluded from further consideration. An initial exclusion of prospective appointees from further consideration may not reduce the number of prospective appointees to fewer than three (3) unless there are fewer than three (3) prospective appointees. Interviews of prospective appointees must be conducted at a meeting that is open to the public.

(11) To train school board members with an outside consultant about the performance of the role of the members as public officials.

(12) To prepare or score examinations used in issuing licenses, certificates, permits, or registrations under IC 15-5-1.1 or IC 25.

(c) A final action must be taken at a meeting open to the public.

(d) Public notice of executive sessions must state the subject matter by specific reference to the enumerated instance or instances for which executive sessions may be held under subsection (b). The requirements stated in section 4 of this chapter for memoranda and minutes being made available to the public is modified as to executive sessions in that the memoranda and minutes must identify the subject matter considered by specific reference to the enumerated instance or instances for which public notice was given. The governing body shall certify by a statement in the memoranda and minutes of the governing body that no subject matter was discussed in the executive session other than the subject matter specified in the public notice.

(e) A governing body may not conduct an executive session during a meeting, except as otherwise permitted by applicable statute. A meeting may not be recessed and reconvened with the intent of circumventing this subsection.

SECTION 3. IC 5-14-3-4, AS AMENDED BY P.L.1-2002, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) The following public records are excepted from section 3 of this chapter and may not be disclosed by a public agency, unless access to the records is specifically required by a state or federal statute or is ordered by a court under the rules of discovery:

(1) Those declared confidential by state statute.

(2) Those declared confidential by rule adopted by a public agency under specific authority to classify public records as confidential granted to the public agency by statute.

(3) Those required to be kept confidential by federal law.

(4) Records containing trade secrets.

(5) Confidential financial information obtained, upon request, from a person. However, this does not include information that is filed with or received by a public agency pursuant to state statute.

(6) Information concerning research, including actual research documents, conducted under the auspices of an institution of higher education, including information:

(A) concerning any negotiations made with respect to the research; and

(B) received from another party involved in the research.

(7) Grade transcripts and license examination scores obtained as part of a licensure process.

(8) Those declared confidential by or under rules adopted by the supreme court of Indiana.

(9) Patient medical records and charts created by a provider, unless the patient gives written consent under IC 16-39.

(10) Application information declared confidential by the twenty-first century research and technology fund board under IC 4-4-5.1.

(11) The following personal information concerning a customer of a municipally owned utility (as defined in IC 8-1-2-1):

(A) Telephone number.

(B) Social Security number.

(C) Address.

(12) A photograph, a video recording, or an audio recording of an autopsy, except as provided in IC 36-2-14-10.

(b) Except as otherwise provided by subsection (a), the following public records shall be excepted from section 3 of this chapter at the discretion of a public agency:

(1) Investigatory records of law enforcement agencies. However, certain law enforcement records must be made available for inspection and copying as provided in section 5 of this chapter.

(2) The work product of an attorney representing, pursuant to state employment or an appointment by a public agency:

(A) a public agency;

(B) the state; or

(C) an individual.

(3) Test questions, scoring keys, and other examination data used in administering a licensing examination, examination for employment, or academic examination before the examination is given or if it is to be given again.

(4) Scores of tests if the person is identified by name and has not consented to the release of his scores.

(5) The following:

(A) Records relating to negotiations between the department of commerce, the Indiana development finance authority, the film commission, the Indiana business modernization and technology corporation, or economic development commissions with industrial, research, or commercial prospects, if the records are created while negotiations are in progress.

(B) Notwithstanding clause (A), the terms of the final offer of public financial resources communicated by the department of commerce, the Indiana development finance authority, the Indiana film commission, the Indiana business modernization and technology corporation, or economic development commissions to an industrial, a research, or a commercial prospect shall be available for inspection and copying under section 3 of this chapter after negotiations with that prospect have terminated.

(C) When disclosing a final offer under clause (B), the department of commerce shall certify that the information being disclosed accurately and completely represents the terms of the final offer.

(6) Records that are intra-agency or interagency advisory or

deliberative material, including material developed by a private contractor under a contract with a public agency, that are expressions of opinion or are of a speculative nature, and that are communicated for the purpose of decision making.

(7) Diaries, journals, or other personal notes serving as the functional equivalent of a diary or journal.

(8) Personnel files of public employees and files of applicants for public employment, except for:

(A) the name, compensation, job title, business address, business telephone number, job description, education and training background, previous work experience, or dates of first and last employment of present or former officers or employees of the agency;

(B) information relating to the status of any formal charges against the employee; and

(C) ~~information concerning~~ **the factual basis for a** disciplinary ~~actions~~ **action** in which final action has been taken and that resulted in the employee being ~~disciplined~~ **suspended, demoted,** or discharged.

However, all personnel file information shall be made available to the affected employee or his representative. This subdivision does not apply to disclosure of personnel information generally on all employees or for groups of employees without the request being particularized by employee name.

(9) Minutes or records of hospital medical staff meetings.

(10) Administrative or technical information that would jeopardize a recordkeeping or security system.

(11) Computer programs, computer codes, computer filing systems, and other software that are owned by the public agency or entrusted to it and portions of electronic maps entrusted to a public agency by a utility.

(12) Records specifically prepared for discussion or developed during discussion in an executive session under IC 5-14-1.5-6.1. However, this subdivision does not apply to that information required to be available for inspection and copying under subdivision (8).

(13) The work product of the legislative services agency under personnel rules approved by the legislative council.

(14) The work product of individual members and the partisan staffs of the general assembly.

(15) The identity of a donor of a gift made to a public agency if:

(A) the donor requires nondisclosure of his identity as a condition of making the gift; or

(B) after the gift is made, the donor or a member of the donor's family requests nondisclosure.

(16) Library or archival records:

(A) which can be used to identify any library patron; or

(B) deposited with or acquired by a library upon a condition that the records be disclosed only:

(i) to qualified researchers;

(ii) after the passing of a period of years that is specified in the documents under which the deposit or acquisition is made; or

(iii) after the death of persons specified at the time of the acquisition or deposit.

However, nothing in this subdivision shall limit or affect contracts entered into by the Indiana state library pursuant to IC 4-1-6-8.

(17) The identity of any person who contacts the bureau of motor vehicles concerning the ability of a driver to operate a motor vehicle safely and the medical records and evaluations made by the bureau of motor vehicles staff or members of the driver licensing advisory committee. However, upon written request to the commissioner of the bureau of motor vehicles, the driver must be given copies of the driver's medical records and evaluations that concern the driver.

(18) School safety and security measures, plans, and systems, including emergency preparedness plans developed under 511 IAC 6.1-2-2.5.

(c) Notwithstanding section 3 of this chapter, a public agency is not required to create or provide copies of lists of names and addresses, unless the public agency is required to publish such lists and disseminate them to the public pursuant to statute. However, if a public agency has created a list of names and addresses, it must permit a person to inspect and make memoranda abstracts from the lists unless access to the lists is prohibited by law. The following lists of names and addresses may not be disclosed by public agencies to commercial entities for commercial purposes and may not be used by commercial entities for commercial purposes:

(1) A list of employees of a public agency.

(2) A list of persons attending conferences or meetings at a state institution of higher education or of persons involved in programs or activities conducted or supervised by the state institution of higher education.

(3) A list of students who are enrolled in a public school corporation if the governing body of the public school corporation adopts a policy:

(A) prohibiting the disclosure of the list to commercial entities for commercial purposes; or

(B) specifying the classes or categories of commercial entities to which the list may not be disclosed or by which the list may not be used for commercial purposes.

A policy adopted under subdivision (3) must be uniform and may not discriminate among similarly situated commercial entities.

(d) Nothing contained in subsection (b) shall limit or affect the right of a person to inspect and copy a public record required or directed to be made by any statute or by any rule of a public agency.

(e) Notwithstanding any other law, a public record that is classified as confidential, other than a record concerning an adoption, shall be made available for inspection and copying seventy-five (75) years after the creation of that record.

(f) Notwithstanding subsection (e) and section 7 of this chapter:

(1) public records subject to IC 5-15 may be destroyed only in accordance with record retention schedules under IC 5-15; or

(2) public records not subject to IC 5-15 may be destroyed in the ordinary course of business.

SECTION 4. **An emergency is declared for this act**.

(Reference is to SB 169 as reprinted April 3, 2003.)

C. LAWSON	GOODIN
BOWSER	STINE
Senate Conferees	House Conferees

The conference committee report was filed and read a first time.

CONFERENCE COMMITTEE REPORT
ESB 533–1; filed April 23, 2003, at 10:24 a.m.

Mr. Speaker: Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed House Amendments to Engrossed Senate Bill 533 respectfully reports that said two committee have conferred and agreed as follows to wit:

that the Senate recede from its dissent from all House amendments and that the Senate now concur in all House amendments to the bill and that the bill be further amended as follows:

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 13-11-2-38.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 38.3. "Concentrated animal feeding operation" or "CAFO", for purposes of IC 13-18-19, IC 13-18-20, and IC 13-30, has the meaning set forth in 40 CFR 122.23.**

SECTION 2. IC 13-11-2-164 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 164. (a) "Political subdivision", for purposes of IC 13-18-13, means:

(1) a political subdivision (as defined in IC 36-1-2);

(2) a regional water, sewage, or solid waste district organized under:

(A) IC 13-26; or

(B) IC 13-3-2 (before its repeal July 1, 1996); or

(3) a local public improvement bond bank organized under IC 5-1.4.

(b) "Political subdivision", for purposes of IC 13-18-21, means:

(1) a political subdivision (as defined in IC 36-1-2);

(2) a regional water, sewage, or solid waste district organized under:
(A) IC 13-26; or
(B) IC 13-3-2 (before its repeal July 1, 1996);
(3) a local public improvement bond bank organized under IC 5-1.4;
(4) a qualified entity described in IC 5-1.5-1-8(4) that is a public water utility described in IC 8-1-2-125; or
(5) a conservancy district established for the purpose set forth in IC 14-33-1-1(a)(4).

(c) "Political subdivision", for purposes of IC 13-19-5 **and IC 13-30,** has the meaning set forth in IC 36-1-2-13 and includes a redevelopment district under IC 36-7-14 or IC 36-7-15.1.

SECTION 3. IC 13-18-19-3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 3. (a) A person that proposes to:**

(1) construct a concentrated animal feeding operation;
(2) modify an existing confined feeding operation such that it becomes a CAFO; or
(3) modify an existing CAFO;

must construct or modify the operation in accordance with rules for CAFO NPDES permits adopted by the board.

(b) Obtaining an NPDES permit for a CAFO meets the requirements of IC 13-18-10-1 and 327 IAC 16 to obtain an approval.

(c) A person that:
(1) is required; or
(2) chooses;

to obtain an NPDES permit under this section may obtain an NPDES general permit by filing a notice of intent with the department, unless that person is required by the commissioner to obtain an individual NPDES permit. When a person files a notice of intent under this subsection, the commissioner shall publish a notice requesting comments concerning the notice of intent. A comment period of at least thirty (30) days must follow publication of a notice under this subsection. During the comment period, interested persons may submit written comments to the commissioner concerning the notice of intent.

(d) A notice of intent filed under subsection (c) must:
(1) certify that the CAFO follows or will follow rules for CAFO NPDES permits adopted by the board;
(2) include a copy of the site plan for the CAFO; and
(3) include a copy of plans and specifications for the design and operation of manure treatment and control facilities.

(e) Subject to subsection (f), a person remains subject to an NPDES general permit for a CAFO until the earlier of:
(1) the date on which the person discontinues and closes the operation in accordance with 327 IAC 16-12; or
(2) the date five (5) years after the date on which the notice of intent was filed under subsection (c).

(f) A person remains subject to an NPDES general permit for a CAFO after the date indicated in subsection (e) if, before that date, the person files another notice of intent with the department under rules adopted by the board for CAFO NPDES general permits. A notice of intent filed under this subsection must comply with subsection (d).

(g) If a discharge from a CAFO to waters occurs during the five (5) years that immediately precede the date of filing of the notice of intent under subsection (c) or (f), the department may determine that the person that files the notice of intent must apply for an individual NPDES permit for the operation.

(h) If a person applies for and receives an individual NPDES permit under this section and:
(1) no discharge to waters from the CAFO occurs; or
(2) no enforcement action is taken based on:
(A) a violation that represents; or
(B) a series of violations that represent;
a threat to the environment;

during the five (5) years immediately following the issuance of the individual NPDES permit, the person may become subject to an NPDES general permit for the operation by filing a notice of intent under subsection (c).

(i) A determination by the commissioner that an individual NPDES permit is required is appealable under IC 4-21.5.

SECTION 4. IC 13-18-20-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. (a) **Except as provided in subsections (c) and (d),** when a person files an application with the department concerning a NPDES permit, including:
(1) an application for an initial permit;
(2) the renewal of a permit;
(3) the modification of a permit; or
(4) a variance from a permit;
the person must remit an application fee of fifty dollars ($50) to the department.

(b) If a person does not remit an application fee to the department, the department shall deny the person's application.

(c) When a person files an application with the department concerning:
(1) an initial; or
(2) the renewal of a;
general NPDES permit under IC 13-18-19-3, the person must remit an application fee of one hundred fifty dollars ($150) to the department.

(d) When a person files an application with the department concerning:
(1) an initial; or
(2) the renewal of an;
individual NPDES permit under IC 13-18-19-3, the person must remit an application fee of three hundred dollars ($300) to the department.

SECTION 5. IC 13-30-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) Subject to IC 13-14-6 and except as provided in IC 13-23-14-2 and IC 13-23-14-3, a person who violates:
(1) any provision of:
(A) environmental management laws;
(B) air pollution control laws;
(C) water pollution control laws;
(D) IC 13-18-14-1; or
(E) a rule or standard adopted by one (1) of the boards; or
(2) any determination, permit, or order made or issued by the commissioner under:
(A) environmental management laws or IC 13-7 (before its repeal);
(B) air pollution control laws or IC 13-1-1 (before its repeal); or
(C) water pollution control laws or IC 13-1-3 (before its repeal);
is liable for a civil penalty not to exceed twenty-five thousand dollars ($25,000) per day of any violation.

(b) The department may:
(1) recover the civil penalty described in subsection (a) in a civil action commenced in any court with jurisdiction; and
(2) request in the action that the person be enjoined from continuing the violation.

(c) With respect to a violation under subsection (a) by a CAFO of water pollution control laws or a rule or standard adopted by the water pollution control board relating to water pollution control laws, the department may impose:
(1) a civil penalty in addition to the civil penalty imposed under subsection (a) not to exceed five thousand dollars ($5,000) per day for a violation that represents three (3) or more separate discharges to waters of the state during the period that ends five (5) years after the first discharge occurs; and
(2) a civil penalty in addition to the civil penalty imposed under subsection (a) not to exceed ten thousand dollars ($10,000) per day for a violation that represents five (5) or more separate discharges to waters of the state during the period that ends ten (10) years after the date the first discharge occurs.

If the department imposes an additional penalty under this

subsection, the person that commits the violation is liable for the additional penalty.

(d) The department shall distribute revenue that results from the penalties imposed under subsection (c) as follows:

(1) Seventy-five percent (75%) to the clean water Indiana fund established under IC 14-32-8.

(2) Fifteen percent (15%) to the soil and water conservation district in which the confined feeding operation is located.

(3) Ten percent (10%) to the political subdivisions in which the confined feeding operation is located (other than the district referred to in subdivision (2)), in proportion to the most recently collected property tax levies of those political subdivisions.

SECTION 6. **An emergency is declared for this act.**

(Reference is to ESB 533 as reprinted April 9, 2003.)

JACKMAN	BOTTORFF
LEWIS	FRIEND
Senate Conferees	House Conferees

The conference committee report was filed and read a first time.

CONFERENCE COMMITTEE REPORT
EHB 1019–1; filed April 23, 2003, at 1:09 p.m.

Mr. Speaker: Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed Senate Amendments to Engrossed House Bill 1019 respectfully reports that said two committee have conferred and agreed as follows to wit:

that the House recede from its dissent from all Senate amendments and that the House now concur in all Senate amendments to the bill and that the bill be further amended as follows:

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 27-1-3-30 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 30. (a) As used in this section, "accident and sickness insurance policy" has the meaning set forth in IC 27-8-14.2-1.**

(b) As used in this section, "health maintenance organization" has the meaning set forth in IC 27-13-1-19.

(c) As used in this section, "mandated benefit" means certain health coverage or an offering of certain health coverage that is required under:

(1) an accident and sickness insurance policy; or

(2) a contract with a health maintenance organization.

(d) An insurer that issues an accident and sickness insurance policy and a health maintenance organization, not later than March 1 of each year, shall provide to the department, in a format and medium prescribed by the department, actuarial information and other information related to the implementation of a mandated benefit, including information reflecting:

(1) specific short term and long term financial costs, cost savings, and benefits to the insurer, health maintenance organization, consumers, or other parties resulting from implementation of the mandated benefit;

(2) other costs and benefits to the insurer, health maintenance organization, consumers, or other parties resulting from implementation of the mandated benefit, including cost savings and health benefits to consumers, and the effect of the mandated benefit on:

(A) premium rates;

(B) the number of individuals covered under a policy or contract; and

(C) costs related to other health care services covered under a policy or contract that may be affected by the implementation of the mandated benefit;

before and after implementation of the mandate; and

(3) other information requested by the department.

(e) The department shall:

(1) analyze the information provided under subsection (d), including an analysis of:

(A) possible reasons for changes in the information with implementation of a mandated benefit; and

(B) other analyses requested by the legislative council; and

(2) not later than June 30 of each year, report the results of the analysis to the legislative council.

(f) Information provided to the department under this section is confidential. The report to the legislative council under subsection (e) may not identify an individual insurer or health maintenance organization.

SECTION 2. IC 27-1-3-31 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 31. (a) As used in this section, "accident and sickness insurance policy" has the meaning set forth in IC 27-8-14.2-1.**

(b) As used in this section, "health maintenance organization" has the meaning set forth in IC 27-13-1-19.

(c) As used in this section, "mandated benefit proposal" means a bill or resolution pending before the general assembly that, if enacted, would require certain health coverage or an offering of certain health coverage under:

(1) an accident and sickness insurance policy; or

(2) a contract with a health maintenance organization.

(d) An insurer that issues an accident and sickness insurance policy and a health maintenance organization may provide to the department, in a format and medium prescribed by the department, actuarial information and other information related to a mandated benefit proposal, including information reflecting:

(1) specific short term and long term financial costs, cost savings, and benefits to the insurer, health maintenance organization, consumers, or other parties resulting from implementation of the proposed mandated benefit; and

(2) other costs and benefits to the insurer, health maintenance organization, consumers, or other parties resulting from implementation of the proposed mandated benefit, including cost savings and health benefits to consumers, and the effect of the proposed mandated benefit on:

(A) premium rates;

(B) the number of individuals covered under a policy or contract; and

(C) costs related to other health care services covered under a policy or contract that may be affected by the implementation of the proposed mandated benefit;

before and after implementation of the proposed mandated benefit.

(e) Upon receipt of the information described in subsection (d), the department shall:

(1) analyze the information; and

(2) report the results of the analysis to the legislative council.

(f) Information provided to the department under this section is confidential. The report to the legislative council under subsection (e) may not identify an individual insurer or health maintenance organization.

SECTION 3. IC 27-8-24.1 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]:

Chapter 24.1. Coverage for Treatment of Inherited Metabolic Disease

Sec. 1. As used in this chapter, "accident and sickness insurance policy" has the meaning set forth in IC 27-8-5-27(a).

Sec. 2. As used in this chapter, "covered individual" means an individual who is entitled to coverage under an accident and sickness insurance policy.

Sec. 3. As used in this chapter, "inherited metabolic disease" means a disease:

(1) caused by inborn errors of amino acid, organic acid, or urea cycle metabolism; and

(2) treatable by the dietary restriction of one (1) or more amino acids.

Sec. 4. As used in this chapter, "medical food" means a formula that is:

(1) intended for the dietary treatment of a disease or

condition for which nutritional requirements are established by medical evaluation; and

(2) formulated to be consumed or administered enterally under the direction of a physician.

Sec. 5. An accident and sickness insurance policy must provide coverage for medical food that is:

(1) medically necessary; and

(2) prescribed by a covered individual's treating physician for treatment of the covered individual's inherited metabolic disease.

Sec. 6. The coverage that must be provided under this chapter shall not be subject to dollar limits, coinsurance, or deductibles that are less favorable to a covered individual than the dollar limits, coinsurance, or deductibles that apply to coverage for:

(1) prescription drugs generally under the accident and sickness insurance policy, if prescription drugs are covered under the accident and sickness insurance policy; or

(2) physical illness generally under the accident and sickness insurance policy, if prescription drugs are not covered under the accident and sickness insurance policy.

SECTION 4. IC 27-13-7-18 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: **Sec. 18. (a) As used in this section, "inherited metabolic disease" means a disease:**

(1) caused by inborn errors of amino acid, organic acid, or urea cycle metabolism; and

(2) treatable by the dietary restriction of one (1) or more amino acids.

(b) As used in this section, "medical food" means a formula that is:

(1) intended for the dietary treatment of a disease or condition for which nutritional requirements are established by medical evaluation; and

(2) formulated to be consumed or administered enterally under the direction of a physician.

(c) A group health maintenance organization contract that provides coverage for basic health care services must provide coverage for medical food that is:

(1) medically necessary; and

(2) prescribed for an enrollee by the enrollee's treating physician for treatment of the enrollee's inherited metabolic disease.

(d) The coverage that must be provided under this section shall not be subject to dollar limits, copayments, or deductibles that are less favorable to an enrollee than the dollar limits, copayments, or deductibles that apply to coverage for:

(1) prescription drugs generally under the group contract, if prescription drugs are covered under the group contract; or

(2) physical illness generally under the group contract, if prescription drugs are not covered under the group contract.

SECTION 5. [EFFECTIVE JULY 1, 2003] **(a) IC 27-8-24.1, as added by this act, applies to an accident and sickness insurance policy that is issued, delivered, amended, or renewed after December 31, 2003.**

(b) IC 27-13-7-18, as added by this act, applies to a health maintenance organization contract that is entered into, delivered, amended, or renewed after December 31, 2003.

(Reference is to EHB 1019 as reprinted April 9, 2003.)

FRENZ	MILLER
RIPLEY	BREAUX
House Conferees	Senate Conferees

The conference committee report was filed and read a first time.

RESOLUTIONS ON FIRST READING

House Concurrent Resolution 73

Representatives Stevenson, Aguilera, Dobis, Ayres, Harris, Kuzman, L. Lawson, Lehe, V. Smith, and C. Brown introduced House Concurrent Resolution 73:

A CONCURRENT RESOLUTION memorializing Sergeant Duane Rios.

Whereas, Sergeant Duane Rios, Griffith, Indiana, was killed in the line of duty while fighting on the front lines in Operation Iraqi Freedom;

Whereas, Sergeant Rios, 25, who was stationed at Camp Pendleton, California, was a combat engineer and member of the 1st Combat Engineer Battalion Bravo Company;

Whereas, On February 4, 2003, Sergeant Rios was deployed to Kuwait;

Whereas, Sergeant Rios, who commanded a vehicle traveling with the Marines' 2nd Tank Battalion, lost his life during a fierce firefight on April 5, 2003;

Whereas, Sergeant Rios died bravely defending his fellow soldiers, his country, and the Iraqi people from a tyrannical ruler;

Whereas, Sergeant Duane Rios was a graduate of Griffith High School where he met his wife, Erica;

Whereas, Sergeant Rios is remembered by the faculty and students of Griffith High School as a hard working, determined student and athlete;

Whereas, The family and friends of Sergeant Rios can take comfort in the knowledge that Sergeant Rios believed in what he was doing and that he is truly an American hero; and

Whereas, Throughout history brave men like Sergeant Duane Rios have made the ultimate sacrifice in defense of freedom throughout the world; without men like Sergeant Rios freedom could not survive: Therefore,

Be it resolved by the House of Representatives of the General Assembly of the State of Indiana, the Senate concurring:

SECTION 1. That the Indiana General Assembly pays tribute to an outstanding American who gave his life in defense of freedom. Sergeant Duane Rios was killed on the front lines fighting to preserve freedom. Sergeant Rios died doing what he believed in. The Representatives and Senators of the Indiana General Assembly extend our deepest sympathy to his wife, Erica.

SECTION 2. That the Principal Clerk of the House of Representatives shall transmit a copy of this resolution to his wife, Erica, his parents Roberta and John Rios, his brother John Rios, his grandparents George and Carolyn Shawn, the Griffith town hall, the principal of Griffith High School, the commander of Griffith American Legion Post 66, and the commander of Griffith VFW Post 9982.

The resolution was read a first time and adopted by voice vote. The Clerk was directed to inform the Senate of the passage of the resolution. Senate sponsors: Senators S. Smith, Mrvan, Rogers, Antich, and Landske.

The Speaker yielded the gavel to the Speaker Pro Tempore, Representative Dobis.

Senate Concurrent Resolution 74

The Speaker handed down Senate Concurrent Resolution 74, sponsored by Representative Mahern:

A CONCURRENT RESOLUTION recognizing Linda Miller on the occasion of her retirement from the Legislative Services Agency.

Whereas, Linda Miller, managing editor of the Indiana Administrative Code and Register division of the Legislative Services Agency (LSA), will be retiring at the end of June;

Whereas, Linda first came to the LSA in October 1977 from employment at LaRue Carter Hospital;

Whereas, Linda began her career at the LSA as a secretary in the Public Law Division;

Whereas, Her many talents and her inspired work ethic soon earmarked her for promotion;

Whereas, During her tenure as managing editor of the Indiana

Administrative Code and Register, the publication has never missed a deadline;

Whereas, Through her work with the Indiana Administrative Code and Register, Linda has interacted with representatives of most state agencies;

Whereas, Everyone Linda came in contact with soon came to respect her diligence, dedication, and sincerity and like her genuine warmth and friendliness;

Whereas, Linda appreciates the environmental treasures of the earth, and her retirement will allow her more time to appreciate these natural marvels;

Whereas, Linda is an avid and accomplished gardener, further demonstrating her appreciation for and love of nature;

Whereas, Linda Miller will be sorely missed when her days are complete at the Legislative Services Agency, not only by her co-workers, who held her in high regard, but also by all state agency representatives who, in the adoption of state rules, had the pleasure to work with her; and

Whereas, It is through the efforts of employees like Linda Miller that the Legislative Services Agency has maintained its excellent reputation for many years: Therefore,

Be it resolved by the Senate
of the General Assembly of the State of Indiana,
the House of Representatives concurring:

SECTION 1. That the Indiana General Assembly wishes to bid Linda Miller a fond farewell and to wish her well in her future endeavors.

SECTION 2. That copies of this resolution be transmitted by the Secretary of the Senate to Linda Miller and her husband, Alan Kemp.

The resolution was read a first time and adopted by voice vote. The Clerk was directed to inform the Senate of the passage of the resolution.

Senate Concurrent Resolution 75

The Speaker handed down Senate Concurrent Resolution 75, sponsored by Representative Behning:

A CONCURRENT RESOLUTION recognizing Donna Almon on the occasion of her retirement from the Legislative Services Agency.

Whereas, Donna Almon, receptionist for the Legislative Services Agency (LSA), will be retiring at the end of the first regular session of the 113th General Assembly;

Whereas, It is Donna's smiling face that greets every visitor to Room 301 in the State House;

Whereas, Donna Almon is the person who has dealt efficiently and pleasantly with every question and complaint presented to the front desk since she began working as the receptionist;

Whereas, Donna is also the person who has the impossible task of keeping track of fiscal analysts, attorneys, and LSA's executive director;

Whereas, Donna Almon came to the Legislative Services Agency in July 1983 from the House of Representatives;

Whereas, Donna has held several positions during her career at the LSA: receptionist-secretary for the Administrative division, travel claims processor, and, finally, receptionist for the Office of Fiscal and Management Analysis and the Office of Bill Drafting and Research;

Whereas, Although Donna will be greatly missed at the LSA, she will be enjoying her retirement with more spare time to enjoy her antique glass collection; and

Whereas, Donna Almon has been a highly valued employee of the Legislative Services Agency for many years; her shoes will be impossible to fill: Therefore,

Be it resolved by the Senate
of the General Assembly of the State of Indiana,
the House of Representatives concurring:

SECTION 1. That the Indiana General Assembly wishes to bid Donna Almon a fond farewell and to wish her well in her future endeavors.

SECTION 2. That copies of this resolution be transmitted by the Secretary of the Senate to Donna Almon, her husband Ken, and her two sons.

The resolution was read a first time and adopted by voice vote. The Clerk was directed to inform the Senate of the passage of the resolution.

Senate Concurrent Resolution 76

The Speaker handed down Senate Concurrent Resolution 76, sponsored by Representative Crawford:

A CONCURRENT RESOLUTION congratulating Ron Hunter on his selection as the 2002-03 Mid-Continent Conference Men's Basketball Coach of the Year and congratulating the Indiana University-Purdue University at Indianapolis (IUPUI) Jaguars on their Mid-Continent Conference men's basketball tournament championship.

Whereas, This was a season of firsts for Ron Hunter and the IUPUI Jaguars;

Whereas, Ron Hunter, head coach of the IUPUI men's basketball team, was named the 2002-03 Men's Basketball Coach of the Year in the Mid-Continent Conference;

Whereas, Hunter began coaching at IUPUI in 1993-94, when the program was coming off a 9-18 record and beginning the process of moving up to Division I in the National Collegiate Athletic Association (NCAA);

Whereas, In 2002-03 Ron Hunter guided the Jaguars to 17 regular season wins and a 10-4 record in conference play, the highest win totals since IUPUI moved to NCAA Division I;

Whereas, The Jaguars were 9-2 in home games this season, the team's best home record since the 1997-98 season;

Whereas, On November 27, 2002, the IUPUI Jaguars defeated Northwestern University by a score of 56-53, the first time IUPUI has defeated a Big Ten Conference opponent;

Whereas, The Jaguars were seeded number 2 in the Mid-Continent Conference men's basketball tournament, the highest seeding in their three years in the tournament;

Whereas, The IUPUI Jaguars earned an invitation to the NCAA tournament for the first time by winning the Mid-Continent Conference tournament;

Whereas, Ron Hunter ranks second among all IUPUI basketball coaches in career wins with 133 and holds the highest career winning percentage in school history at .520;

Whereas, Under the guidance of Coach Ron Hunter, IUPUI reached the 20-win level for the first time since moving to Division I;

Whereas, The IUPUI Jaguars have worked as a team and practiced long hours to achieve these milestones; and

Whereas, Coach Ron Hunter and the IUPUI Jaguars have established themselves as a team to be reckoned with: Therefore,

Be it resolved by the Senate
of the General Assembly of the State of Indiana,
the House of Representatives concurring:

SECTION 1. That the Indiana General Assembly congratulates IUPUI head basketball coach Ron Hunter on his selection as the 2002-03 Mid-Continent Conference Men's Basketball Coach of the Year and congratulates the Jaguars on their Mid-Continent Conference men's basketball tournament championship.

SECTION 2. That copies of this resolution shall be transmitted by the Secretary of the Senate to Ron Hunter and the members of the IUPUI Jaguars.

The resolution was read a first time and adopted by voice vote. The Clerk was directed to inform the Senate of the passage of the resolution.

Senate Concurrent Resolution 77

The Speaker handed down Senate Concurrent Resolution 77, sponsored by Representatives Bauer and Mangus:

A CONCURRENT RESOLUTION honoring WSBT-TV on its 50th anniversary.

Whereas, WSBT-TV brought local television to the Michiana area, in north central Indiana, fifty years ago and has played an important role in the lives of residents for two generations;

Whereas, WSBT, a CBS affiliate located in South Bend, was founded on December 21, 1952 and has continued to demonstrate excellence in broadcasting for fifty years;

Whereas, In 1953, WSBT was the first UHF station to air a high school basketball tournament and the first TV station to present a closed-circuit telecast of a college football practice;

Whereas, On January 1, 1954, WSBT-TV became the first UHF station in Indiana to broadcast in color and in 1958 the station became Channel 22, as it is known today; and

Whereas, WSBT has demonstrated broadcast excellence for over fifty years and has become a fixture to the Michiana region: Therefore,

Be it resolved by the Senate
of the General Assembly of the State of Indiana,
the House of Representatives concurring:

SECTION 1. That the General Assembly of the State of Indiana honors WSBT-TV on its fiftieth anniversary and for continued broadcast excellence.

SECTION 2. The Secretary of the Senate is hereby directed to transmit a copy of this resolution to Mr. Todd Schurz, President of WSBT.

The resolution was read a first time and adopted by voice vote. The Clerk was directed to inform the Senate of the passage of the resolution.

RECESS

The House recessed for the remarks of United States Congressman Steve Buyer.

The House reconvened with the Speaker Pro Tempore in the Chair.

REPORTS FROM COMMITTEES

COMMITTEE REPORT

Mr. Speaker: Pursuant to Joint Rule 20, your Committee on Rules and Legislative Procedures, to which was referred Engrossed House Bill 1218 because it conflicts with HEA 1813-2003 without properly recognizing the existence of HEA 1813-2003, has had Engrossed House Bill 1218 under consideration and begs leave to report back to the House with the recommendation that Engrossed House Bill 1218 be corrected as follows:

Page 1, line 1, delete "P.L.120-2002," and insert "HEA 1813-2003,".

Page 3, delete lines 1 through 5, begin a new line block indented and insert:

"(22) An emergency rule adopted by the office of Medicaid policy and planning under IC 12-15-41-15.

(23) An emergency rule adopted by the Indiana state board of animal health under IC 15-2.1-18-21.

(24) An emergency rule adopted by the board of directors of the Indiana education savings authority under IC 21-9-4-7.

(25) An emergency rule adopted by the Indiana board of tax review under IC 6-1.1-4-34.

(26) An emergency rule adopted by the department of local government finance under IC 6-1.1-4-33.".

Page 3, line 6, delete "(24)" and insert "**(27)**".

(Reference is to EHB 1218 as printed April 4, 2003.)

PELATH, Chair
WHETSTONE, R.M.M.
GRUBB, Author

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Pursuant to Joint Rule 20, your Committee on Rules and Legislative Procedures, to which was referred Engrossed House Bill 1358 because it conflicts with HEA 1660-2003 without properly recognizing the existence of HEA 1660-2003, has had Engrossed House Bill 1358 under consideration and begs leave to report back to the House with the recommendation that Engrossed House Bill 1358 be corrected as follows:

Page 1, line 15, delete "P.L.222-2001," and insert "HEA 1660-2003, SECTION 3,".

Page 1, line 16, delete "SECTION 4,".

Page 2, line 34, delete "by IC 35-46-1-1);" and insert "in IC 12-10-3-2);".

Page 3, line 19, delete "and".

Page 3, line 22, delete "age." and insert "age;".

Page 3, between lines 22 and 23, begin a new line block indented and insert:

"(6) a Class C felony if it results in serious bodily injury to an endangered adult (as defined in IC 12-10-3-2); and

(7) a Class B felony if it results in the death of an endangered adult (as defined in IC 12-10-3-2).".

(Reference is to EHB 1358 as reprinted April 10, 2003.)

PELATH, Chair
WHETSTONE, R.M.M.
V. SMITH, Author

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Pursuant to Joint Rule 20, your Committee on Rules and Legislative Procedures, to which was referred Engrossed House Bill 1438 because it conflicts with HEA 1167-2003 without properly recognizing the existence of HEA 1167-2003, has had Engrossed House Bill 1438 under consideration and begs leave to report back to the House with the recommendation that Engrossed House Bill 1438 be corrected as follows:

Page 2, line 42, after "25-26-13-23" insert ", AS AMENDED BY HEA 1167-2003, SECTION 76,".

Page 3, line 5, delete "and" and insert "~~and, except as provided in IC 25-23-1-34(b)(4), all~~".

(Reference is to EHB 1438 as reprinted April 9, 2003.)

PELATH, Chair
WHETSTONE, R.M.M.
WELCH, Author

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Pursuant to Joint Rule 20, your Committee on Rules and Legislative Procedures, to which was referred Engrossed House Bill 1791 because it conflicts with SEA 504-2003 without properly recognizing the existence of SEA 504-2003, has had Engrossed House Bill 1791 under consideration and begs leave to report back to the House with the recommendation that Engrossed House Bill 1791 be corrected as follows:

Page 2, line 34, after "or" insert "**an**".

Page 5, line 26, delete "P.L.123-2002," and insert "SEA 504-2003, SECTION 2,".

Page 5, line 27, delete "SECTION 30,".

Page 7, between lines 21 and 22, begin a new line block indented and insert:

"(12) Cigarettes that are sold in violation of IC 24-3-5.2, cigarettes that a person attempts to sell in violation of IC 24-3-5.2, and other personal property owned and used by a person to facilitate a violation of IC 24-3-5.2.".

Page 7, line 22, delete "(12)" and insert "**(13)**".

(Reference is to EHB 1791 as reprinted March 25, 2003.)

PELATH, Chair
WHETSTONE, R.M.M.
HASLER, Author

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Pursuant to Joint Rule 20, your Committee on Rules and Legislative Procedures, to which was referred Engrossed Senate Bill 136 because it conflicts with SEA 477-2003 without properly recognizing the existence of SEA 477-2003, has had Engrossed Senate Bill 136 under consideration and begs leave to report back to the House with the recommendation that Engrossed Senate Bill 136 be corrected as follows:

Page 3, delete lines 2 through 11, begin a new paragraph and insert:

"SECTION 4. IC 3-6-6-40, AS ADDED BY SEA 477-2003, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 40. (a) This section applies after December 31, 2003.

(b) The county election board shall conduct a training and educational meeting for precinct election officers.

(c) The board shall require inspectors and judges to attend the meeting and may require other precinct election officers to attend the meeting.

(d) The meeting required under this section must include information: ~~related~~

(1) relating to making polling places and voting systems accessible to elderly voters and disabled voters; **and**

(2) relating to the voting systems used in the county.

The meeting may include other information relating to the duties of precinct election officers as determined by the county election board.

(e) The meeting required by this section must be held not later than the day before election day.".

Page 29, delete lines 21 through 33.

Page 29, line 30, delete "(c)", begin a new paragraph and insert:

"SECTION 43. IC 3-11-15-13.1, IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 13.1.**".

Page 38, between lines 34 and 35, begin a new paragraph and insert:

"SECTION 58. [EFFECTIVE UPON PASSAGE] **(a) Notwithstanding IC 3-11-15-13, this SECTION applies until July 1, 2003, instead of IC 3-11-15-13.**

(b) Except as provided in IC 3-11-15, to be approved for use in Indiana, a voting system shall meet the standards established by the System Standards issued by the Federal Election Commission on April 30, 2002.

(c) The commission may adopt rules under IC 4-22-2 to require a voting system to meet standards more recent than standards described in subsection (b). If the commission adopts rules under this subsection, a voting system must meet the standards described in the rules instead of the standards described in subsection (b).

(d) This SECTION expires July 1, 2003.".

Renumber all SECTIONS consecutively.

(Reference is to ESB 136 as reprinted April 10, 2003.)

PELATH, Chair
WHETSTONE, R.M.M.
MAHERN, Sponsor

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Pursuant to Joint Rule 20, your Committee on Rules and Legislative Procedures, to which was referred Engrossed Senate Bill 420 because it conflicts with SEA 240-2003 without properly recognizing the existence of SEA 240-2003, has had Engrossed Senate Bill 420 under consideration and begs leave to report back to the House with the recommendation that Engrossed Senate Bill 420 be corrected as follows:

Page 1, line 1, delete "IC 9-13-2-94.5" and insert "IC 9-13-2-94.4".

Page 1, line 3, delete "94.5." and insert "94.4."

(Reference is to ESB 420 as reprinted March 28, 2003.)

PELATH, Chair
WHETSTONE, R.M.M.
MURPHY, Sponsor

Report adopted.

MOTIONS TO CONCUR IN SENATE AMENDMENTS

HOUSE MOTION

Mr. Speaker: I move that the House concur in the Senate amendments to Engrossed House Bill 1166.

FRENZ

Roll Call 622: yeas 89, nays 0. Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that the House reconsider its actions whereby it dissented from the Senate amendments to Engrossed House Bill 1331 and that the House now concur in the Senate amendments to said bill.

T. ADAMS

Roll Call 623: yeas 89, nays 0. Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that the House concur in the Senate amendments to Engrossed House Bill 1423.

MURPHY

Roll Call 624: yeas 89, nays 0. Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that the House concur in the Senate amendments to Engrossed House Bill 1445.

RESKE

Roll Call 625: yeas 90, nays 0. Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that the House concur in the Senate amendments to Engrossed House Bill 1473.

KERSEY

Roll Call 626: yeas 78, nays 13. Motion prevailed.

Representative Leonard was excused for the rest of the day.

HOUSE MOTION

Mr. Speaker: I move that the House concur in the Senate amendments to Engrossed House Bill 1718.

KLINKER

Roll Call 627: yeas 90, nays 0. Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that the House concur in the Senate amendments to Engrossed House Bill 1972.

STILWELL

Roll Call 628: yeas 90, nays 0. Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that the House concur in the Senate amendments to Engrossed House Bill 1169.

HERRELL

Representatives Duncan, Klinker, Pond, and Stine were excused from voting. Roll Call 629: yeas 85, nays 2. Motion prevailed.

The Speaker Pro Tempore yielded the gavel to the Speaker.

MOTIONS TO DISSENT FROM SENATE AMENDMENTS

HOUSE MOTION

Mr. Speaker: I move that the House dissent from the Senate amendments to Engrossed House Bill 1092 and that the Speaker appoint a committee to confer with a like committee from the Senate and report back to the House.

KERSEY

Motion prevailed.

CONFEREES AND ADVISORS APPOINTED

The Speaker announced the following changes in appointment of Representatives as conferees and advisors:

EHB 1437 Conferees: Becker replacing Frizzell
Advisors: T. Brown replacing Becker

CONFERENCE COMMITTEE REPORTS

CONFERENCE COMMITTEE REPORT
EHB 1336–1; filed April 23, 2003, at 2:02 p.m.

Mr. Speaker: Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed Senate Amendments to Engrossed House Bill 1336 respectfully reports that said two committee have conferred and agreed as follows to wit:

that the House recede from its dissent from all Senate amendments and that the House now concur in all Senate amendments to the bill and that the bill be further amended as follows:

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 6-6-11-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 12. (a) In addition to paying the boat excise tax, a boat owner shall complete a form and pay a department of natural resources fee for each boat required to have boat excise decals. The fee is five dollars ($5) for each boating year. However, the fee is waived for the boating year in which the registration fee prescribed by IC 9-29-15 is paid for that boat. The revenue from the fees collected under this chapter shall be transferred to the department of natural resources, as provided in section 29 of this chapter.

(b) In addition to the boat excise tax and the department of natural resources fee, a boat owner shall pay to the department of natural resources a ~~five dollar ($5)~~ lake and river enhancement fee for each boat required to have boat excise decals **in the amount set forth in the following table:**

Value of the Boat	**Amount of the Fee**
Less than $1,000	**$ 5**
At least $1,000, but less than $3,000	**$10**
At least $3,000, but less than $5,000	**$15**
At least $5,000, but less than $10,000	**$20**
At least $10,000	**$25**

(c) The revenue from the lake and river enhancement fee **imposed under subsection (b)** shall be deposited in the **following manner:**

(1) Two-thirds (2/3) of the money shall be deposited in the lake and river enhancement fund established by section 12.5 of this chapter.

(2) One-third (1/3) of the money shall be deposited in the conservation officers marine enforcement fund established by IC 14-9-8-21.5.

SECTION 2. IC 6-6-11-12.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 12.5. (a) The lake and river enhancement fund is established **and allocated** for the ~~purpose of paying~~ **following purposes:**

(1) One-half (1/2) of the fund shall be used to pay costs incurred by the department of natural resources in implementing the lake and river enhancement projects required by IC 14-32-7-12(b)(7).

(2) One-half (1/2) of the fund shall be used by the department of natural resources to pay for lake projects, including projects to:

(A) remove sediment; or

(B) control exotic or invasive plants or animals.

(b) The fund shall be administered by the director of the department of natural resources.

(c) Expenses of administering the fund shall be paid from money in the fund.

(d) The fund consists of the revenue from the lake and river enhancement fee paid by boat owners **and deposited** under ~~IC 6-6-11-12(b).~~ **section 12(c)(1) of this chapter.**

(e) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

(f) With the approval of the governor and the budget agency, **the** money in the fund **allocated under subsection (a)(1)** may be used to augment and supplement the funds appropriated for the implementation of lake and river enhancement projects required by IC 14-32-7-12(b)(7).

SECTION 3. IC 14-8-2-107, AS AMENDED BY P.L.145-2002, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 107. "Fund" has the following meaning:

(1) For purposes of IC 14-9-5, the meaning set forth in IC 14-9-5-1.

(2) For purposes of IC 14-9-8-21, the meaning set forth in IC 14-9-8-21.

(3) **For purposes of IC 14-9-8-21.5, the meaning set forth in IC 14-9-8-21.5.**

(4) For purposes of IC 14-9-9, the meaning set forth in IC 14-9-9-3.

~~(4)~~ **(5)** For purposes of IC 14-12-1, the meaning set forth in IC 14-12-1-1.

~~(5)~~ **(6)** For purposes of IC 14-12-2, the meaning set forth in IC 14-12-2-2.

~~(6)~~ **(7)** For purposes of IC 14-12-3, the meaning set forth in IC 14-12-3-2.

~~(7)~~ **(8)** For purposes of IC 14-13-1, the meaning set forth in IC 14-13-1-2.

~~(8)~~ **(9)** For purposes of IC 14-13-2, the meaning set forth in IC 14-13-2-3.

~~(9)~~ **(10)** For purposes of IC 14-19-4, the meaning set forth in IC 14-19-4-1.

~~(10)~~ **(11)** For purposes of IC 14-19-5, the meaning set forth in IC 14-19-5-1.

~~(11)~~ **(12)** For purposes of IC 14-20-1, the meaning set forth in IC 14-20-1-3.

~~(12)~~ **(13)** For purposes of IC 14-20-11, the meaning set forth in IC 14-20-11-2.

~~(13)~~ **(14)** For purposes of IC 14-22-3, the meaning set forth in IC 14-22-3-1.

~~(14)~~ **(15)** For purposes of IC 14-22-4, the meaning set forth in IC 14-22-4-1.

~~(15)~~ **(16)** For purposes of IC 14-22-5, the meaning set forth in IC 14-22-5-1.

~~(16)~~ **(17)** For purposes of IC 14-22-8, the meaning set forth in IC 14-22-8-1.

~~(17)~~ **(18)** For purposes of IC 14-22-34, the meaning set forth in IC 14-22-34-2.

~~(18)~~ **(19)** For purposes of IC 14-23-3, the meaning set forth in IC 14-23-3-1.

~~(19)~~ **(20)** For purposes of IC 14-23-8, the meaning set forth in IC 14-23-8-1.

~~(20)~~ **(21)** For purposes of IC 14-25-2-4, the meaning set forth in IC 14-25-2-4.

~~(21)~~ **(22)** For purposes of IC 14-25-10, the meaning set forth in IC 14-25-10-1.

~~(22)~~ **(23)** For purposes of IC 14-25-11-19, the meaning set forth in IC 14-25-11-19.

~~(23)~~ **(24)** For purposes of IC 14-25.5, the meaning set forth in IC 14-25.5-1-3.

~~(24)~~ **(25)** For purposes of IC 14-28-5, the meaning set forth in IC 14-28-5-2.

~~(25)~~ **(26)** For purposes of IC 14-31-2, the meaning set forth in

IC 14-31-2-5.

~~(26)~~ **(27)** For purposes of IC 14-25-12, the meaning set forth in IC 14-25-12-1.

~~(27)~~ **(28)** For purposes of IC 14-33-14, the meaning set forth in IC 14-33-14-3.

~~(28)~~ **(29)** For purposes of IC 14-33-21, the meaning set forth in IC 14-33-21-1.

~~(29)~~ **(30)** For purposes of IC 14-34-6-15, the meaning set forth in IC 14-34-6-15.

~~(30)~~ **(31)** For purposes of IC 14-34-14, the meaning set forth in IC 14-34-14-1.

~~(31)~~ **(32)** For purposes of IC 14-37-10, the meaning set forth in IC 14-37-10-1.

SECTION 4. IC 14-9-8-21.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 21.5. (a) As used in this section, "fund" refers to the conservation officers marine enforcement fund established by this section.**

(b) The conservation officers marine enforcement fund is established. The department shall administer the fund. The department may expend the money in the fund exclusively for marine enforcement efforts associated with recreational boating on Indiana waters, including uses described in IC 14-9-9-5.

(c) The fund consists of money from the lake and river enhancement fee paid by boat owners and deposited under IC 6-6-11-12(c)(2). Money deposited in the fund is annually appropriated and allotted to the department to carry out the purposes of this section. The expenses of administering the fund shall be paid from money in the fund.

(d) Money in the fund at the end of a state fiscal year does not revert to the state general fund. However, the department may transfer from the fund to the counties with special boat patrol needs fund (IC 14-9-9-5) an amount that does not exceed twenty percent (20%) of money deposited into the fund.

SECTION 5. IC 14-9-9-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. (a) The counties with special boat patrol needs fund is established exclusively to provide grants to certain counties to provide law enforcement services on lakes located within the counties.

(b) The department shall administer the fund. **Money in the fund includes money transferred from the conservation officers marine enforcement fund (IC 14-9-8-21.5).** Money in the fund is annually appropriated to the department and shall be used exclusively for the enforcement of laws pertaining to watercraft on lakes located in counties with special boat patrol needs as described in this chapter.

(c) The expenses of administering the fund shall be paid from money in the fund.

(d) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested.

(e) Money in the fund at the end of a fiscal year does not revert to the state general fund.

(Reference is to EHB 1336 as printed April 8, 2003.)

T. ADAMS	R. MEEKS
KRUSE	CRAYCRAFT
House Conferees	Senate Conferees

The conference committee report was filed and read a first time.

CONFERENCE COMMITTEE REPORT
ESB 144–1; filed April 23, 2003, at 2:17 p.m.

Mr. Speaker: Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed House Amendments to Engrossed Senate Bill 144 respectfully reports that said two committee have conferred and agreed as follows to wit:

that the Senate recede from its dissent from all House amendments and that the Senate now concur in all House amendments to the bill and that the bill be further amended as follows:

Delete everything after the enacting clause and insert:

SECTION 1. IC 35-42-4-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 9. (a) A person at least eighteen (18) years of age who, with a child at least fourteen (14) years of age but less than sixteen (16) years of age, performs or submits to sexual intercourse or deviate sexual conduct commits sexual misconduct with a minor, a Class C felony. However, the offense is:

(1) a Class B felony if it is committed by a person at least twenty-one (21) years of age; and

(2) a Class A felony if it is committed by using or threatening the use of deadly force, if it is committed while armed with a deadly weapon, if it results in serious bodily injury, or if the commission of the offense is facilitated by furnishing the victim, without the victim's knowledge, with a drug (as defined in IC 16-42-19-2(1)) or a controlled substance (as defined in IC 35-48-1-9) or knowing that the victim was furnished with the drug or controlled substance without the victim's knowledge.

(b) A person at least eighteen (18) years of age who, with a child at least fourteen (14) years of age but less than sixteen (16) years of age, performs or submits to any fondling or touching, of either the child or the older person, with intent to arouse or to satisfy the sexual desires of either the child or the older person, commits sexual misconduct with a minor, a Class D felony. However, the offense is:

(1) a Class C felony if it is committed by a person at least twenty-one (21) years of age; and

(2) a Class B felony if it is committed by using or threatening the use of deadly force, while armed with a deadly weapon, or if the commission of the offense is facilitated by furnishing the victim, without the victim's knowledge, with a drug (as defined in IC 16-42-19-2(1)) or a controlled substance (as defined in IC 35-48-1-9) or knowing that the victim was furnished with the drug or controlled substance without the victim's knowledge.

(c) It is a defense that the accused person reasonably believed that the child was at least sixteen (16) years of age at the time of the conduct. **However, this subsection does not apply to an offense described in subsection (a)(2) or (b)(2).**

(d) It is a defense that the child is or has ever been married. **However, this subsection does not apply to an offense described in subsection (a)(2) or (b)(2).**

SECTION 2. IC 35-50-1-2, AS AMENDED BY P.L.228-2001, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. (a) As used in this section, "crime of violence" means:

(1) murder (IC 35-42-1-1);

(2) attempted murder (IC 35-41-5-1);

(3) voluntary manslaughter (IC 35-42-1-3);

(4) involuntary manslaughter (IC 35-42-1-4);

(5) reckless homicide (IC 35-42-1-5);

(6) aggravated battery (IC 35-42-2-1.5);

(7) kidnapping (IC 35-42-3-2);

(8) rape (IC 35-42-4-1);

(9) criminal deviate conduct (IC 35-42-4-2);

(10) child molesting (IC 35-42-4-3);

(11) sexual misconduct with a minor as a Class A felony ~~(IC 35-42-4-9);~~ **under IC 35-42-4-9(a)(2) or a Class B felony under IC 35-42-4-9(b)(2);**

(12) robbery as a Class A felony or a Class B felony (IC 35-42-5-1);

(13) burglary as a Class A felony or a Class B felony (IC 35-43-2-1); or

(14) causing death when operating a motor vehicle (IC 9-30-5-5).

(b) As used in this section, "episode of criminal conduct" means offenses or a connected series of offenses that are closely related in time, place, and circumstance.

(c) Except as provided in subsection (d) or (e), the court shall determine whether terms of imprisonment shall be served concurrently or consecutively. The court may consider the aggravating and mitigating circumstances in IC 35-38-1-7.1(b) and IC 35-38-1-7.1(c) in making a determination under this subsection. The court may order terms of imprisonment to be served consecutively even if the sentences are not imposed at the same time. However, except for crimes of violence, the total of the consecutive

terms of imprisonment, exclusive of terms of imprisonment under IC 35-50-2-8 and IC 35-50-2-10, to which the defendant is sentenced for felony convictions arising out of an episode of criminal conduct shall not exceed the presumptive sentence for a felony which is one (1) class of felony higher than the most serious of the felonies for which the person has been convicted.

(d) If, after being arrested for one (1) crime, a person commits another crime:

(1) before the date the person is discharged from probation, parole, or a term of imprisonment imposed for the first crime; or

(2) while the person is released:

(A) upon the person's own recognizance; or

(B) on bond;

the terms of imprisonment for the crimes shall be served consecutively, regardless of the order in which the crimes are tried and sentences are imposed.

(e) If a court determines under IC 35-50-2-11 that a person used a firearm in the commission of the offense for which the person was convicted, the term of imprisonment for the underlying offense and the additional term of imprisonment imposed under IC 35-50-2-11 must be served consecutively.

SECTION 3. [EFFECTIVE JULY 1, 2003] **This act applies only to crimes committed after June 30, 2003.**

(Reference is to ESB 144 as reprinted April 11, 2003.)

LONG	L. LAWSON
BOWSER	FOLEY
Senate Conferees	House Conferees

The conference committee report was filed and read a first time.

CONFERENCE COMMITTEE REPORT
ESB 210–1; filed April 23, 2003, at 2:20 p.m.

Mr. Speaker: Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed House Amendments to Engrossed Senate Bill 210 respectfully reports that said two committee have conferred and agreed as follows to wit:

that the Senate recede from its dissent from all House amendments and that the Senate now concur in all House amendments to the bill and that the bill be further amended as follows:

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 27-8-5-26, AS AMENDED BY P.L.96-2002, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 26. ~~(a) This section applies to a policy of accident and sickness insurance issued after June 30, 1997.~~

~~(b) This section applies to a mastectomy performed after June 30, 1997.~~

~~(c)~~ **(a)** As used in this section, "mastectomy" means the removal of all or part of the breast for reasons that are determined by a licensed physician to be medically necessary.

~~(d)~~ **(b)** A policy of accident and sickness insurance that provides coverage for a mastectomy may not be issued, amended, delivered, or renewed in Indiana unless the policy provides coverage **as required under 29 U.S.C. 1185b, including coverage** for:

(1) prosthetic devices; and

(2) reconstructive surgery incident to a mastectomy including:

(A) all stages of reconstruction of the breast on which the mastectomy has been performed; and

(B) surgery and reconstruction of the other breast to produce symmetry;

in the manner determined by the attending physician and the patient to be appropriate.

~~(e)~~ **(c)** Coverage ~~for prosthetic devices or reconstructive surgery~~ **required** under this section is subject to:

(1) the deductible and coinsurance provisions applicable to a mastectomy; and

(2) all other terms and conditions applicable to other benefits.

~~(f) Notwithstanding the provisions of this section, if a mastectomy is performed and there is no evidence of malignancy, coverage required under this section may be limited to the provision of prosthetic devices and reconstructive surgery for two (2) years following the surgery.~~

(d) An insurer that issues a policy of accident and sickness insurance shall provide to an insured, at the time the policy is issued and annually thereafter, written notice of the coverage required under this section. Notice that is sent by the insurer that meets the requirements set forth in 29 U.S.C. 1185b constitutes compliance with this subsection.

~~(g)~~ **(e)** The coverage required under this section applies to a policy of accident and sickness insurance that provides coverage for a mastectomy, regardless of whether an individual who:

(1) underwent a mastectomy; and

(2) is covered under the policy;

was covered under the policy at the time of the mastectomy.

(f) This section does not require an insurer to provide coverage related to post mastectomy care that exceeds the coverage required for post mastectomy care under federal law.

SECTION 2. IC 27-13-7-14, AS AMENDED BY P.L.96-2002, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 14. ~~(a) This section applies to a contract with A health maintenance organization (as defined in IC 27-13-1-19) issued after June 30, 1997.~~

~~(b) This section applies to a mastectomy performed after June 30, 1997.~~

~~(c)~~ **(a)** As used in this section, "mastectomy" means the removal of all or part of the breast for reasons that are determined by a licensed physician to be medically necessary.

~~(d)~~ **(b)** A contract with a health maintenance organization that provides coverage for a mastectomy must provide coverage **as required under 29 U.S.C. 1185b, including coverage** for:

(1) prosthetic devices; and

(2) reconstructive surgery incident to a mastectomy including:

(A) all stages of reconstruction of the breast on which the mastectomy has been performed; and

(B) surgery and reconstruction of the other breast to produce symmetry;

in the manner determined by the attending physician and the patient to be appropriate.

~~(e)~~ **(c)** Coverage ~~for prosthetic devices and reconstructive surgery~~ **required** under this section is subject to:

(1) the deductible and coinsurance provisions applicable to a mastectomy; and

(2) all other terms and conditions applicable to other services under the contract.

~~(f) Notwithstanding the provisions of this section, if a mastectomy is performed and there is no evidence of malignancy, coverage required under this section may be limited to the provision of prosthetic devices and reconstructive surgery for two (2) years following the surgery.~~

(d) A health maintenance organization shall provide to an enrollee, at the time that an individual contract or a group contract is entered into and annually thereafter, written notice of the coverage required under this section. Notice that is sent by the health maintenance organization that meets the requirements set forth in 29 U.S.C. 1185b constitutes compliance with this subsection.

~~(g)~~ **(e)** The coverage required under this section applies to a contract with a health maintenance organization that provides coverage for a mastectomy, regardless of whether an individual who:

(1) underwent a mastectomy; and

(2) is covered under the contract;

was covered under the contract at the time of the mastectomy.

(f) This section does not require a health maintenance organization to provide coverage related to post mastectomy care that exceeds the coverage required for post mastectomy care under federal law.

SECTION 3. [EFFECTIVE JULY 1, 2003] **(a) IC 27-8-5-26, as amended by this act, applies to a policy of accident and sickness insurance that is issued, delivered, amended, or renewed after June 30, 2003.**

(b) IC 27-13-7-14, as amended by this act, applies to an individual contract or a group contract that is entered into, delivered, amended, or renewed after June 30, 2003.

(Reference is to ESB 210 as printed April 8, 2003.)

GARD	SUMMERS
DEMBOWSKI	BECKER
Senate Conferees	House Conferees

The conference committee report was filed and read a first time.

CONFERENCE COMMITTEE REPORT
ESB 479–1; filed April 23, 2003, at 2:20 p.m.

Mr. Speaker: Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed House Amendments to Engrossed Senate Bill 479 respectfully reports that said two committee have conferred and agreed as follows to wit:

that the Senate recede from its dissent from all House amendments and that the Senate now concur in all House amendments to the bill and that the bill be further amended as follows:

Page 11, delete lines 23 through 37.

Page 15, after line 29, begin a new paragraph and insert:

"SECTION 18. IC 35-42-2-1.3, AS AMENDED BY P.L.47-2000, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1.3. **(a)** A person who knowingly or intentionally touches ~~a person~~ **an individual** who:

(1) is or was a spouse of the other person;

(2) is or was living as if a spouse of the other ~~person;~~ **person as provided in subsection (b);** or

(3) has a child in common with the other person;

in a rude, insolent, or angry manner that results in bodily injury to the person described in subdivision (1), (2), or (3) commits domestic battery, a Class A misdemeanor. However, the offense is a Class D felony if the person has a previous, unrelated conviction under this section (or IC 35-42-2-1(a)(2)(E) before its repeal).

(b) In considering whether a person is or was living as a spouse of another individual in subsection (a)(2), the court shall review the following:

(1) the duration of the relationship;

(2) the frequency of contact;

(3) the financial interdependence;

(4) whether the two (2) individuals are raising children together;

(5) whether the two (2) individuals have engaged in tasks directed toward maintaining a common household; and

(6) other factors the court considers relevant.".

Renumber all SECTIONS consecutively.

(Reference is to ESB 479 as reprinted April 9, 2003.)

CLARK	L. LAWSON
SIMPSON	BECKER
Senate Conferees	House Conferees

The conference committee report was filed and read a first time.

CONFERENCE COMMITTEE REPORT
ESB 383–1; filed April 23, 2003, at 2:21 p.m.

Mr. Speaker: Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed House Amendments to Engrossed Senate Bill 383 respectfully reports that said two committee have conferred and agreed as follows to wit:

that the Senate recede from its dissent from all House amendments and that the Senate now concur in all House amendments to the bill and that the bill be further amended as follows:

Page 1, delete everything after the enacting clause and insert the following:

SECTION 1. IC 23-1-29-4.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 4.5. (a) This section does not apply to any corporation that has a class of voting shares registered with the Securities and Exchange Commission under Section 12 of the Securities Exchange Act of 1934.**

(b) Unless otherwise provided in the articles of incorporation, any action required or permitted by this article to be taken at a shareholders' meeting may be taken without a meeting and without a vote if a consent or consents in writing setting forth the action taken are:

(1) signed by shareholders having at least the minimum number of votes necessary to authorize the action at a meeting at which all shareholders entitled to vote were present and voted; and

(2) delivered to the corporation for inclusion in the minutes or filing with the corporate records.

(c) Unless the articles of incorporation provide that no prior notice is required, written notice of the proposed action containing the information required by section 5 of this chapter must be given to the shareholders at least ten (10) days before the action is taken.

(d) If not otherwise determined under section 7 of this chapter, the record date for determining shareholders entitled to take action without a meeting is the date the first shareholder signs the consent under subsection (b).

(e) Each written consent must bear the date of signature of each shareholder who signs the consent.

(f) A written consent is effective when, within sixty (60) days after the earliest dated consent delivered to the corporation, written consents signed by a sufficient number of shareholders to take action are delivered to the corporation, unless the consent specifies a different prior or subsequent effective date.

(g) For purposes of this subsection, "electronic consent" means a telegram, cablegram, or other form of electronic transmission, and "sign" or "signed" includes any manual, facsimile, conformed, or electronic signature. The following apply to an electronic consent:

(1) An electronic consent to an action to be taken may be transmitted by a:

(A) shareholder; or

(B) person or persons authorized to act for a shareholder.

(2) The date that an electronic consent is transmitted is considered to be the date on which the consent is written, signed, and dated for purposes of this section if the electronic consent is delivered with information from which the corporation can determine:

(A) that the electronic consent was transmitted by a shareholder or by a person or persons authorized to act for a shareholder; and

(B) the date on which a shareholder or an authorized person or persons transmitted the electronic consent.

(3) An electronic consent is considered to be delivered when:

(A) the consent is reproduced in paper form; and

(B) the paper form is delivered to the corporation.

(4) Notwithstanding subdivisions (1), (2), and (3), electronic consents may be delivered to the corporation in any other manner provided by resolution of the board of directors.

(5) A reliable reproduction of a consent in writing may be used instead of the original writing for any and all purposes for which the original writing could be used if the reproduction is a complete reproduction of the entire original writing.

(h) Unless prior notice has been given to the shareholders as provided in subsection (c), prompt notice of the taking of the corporate action without a meeting by less than unanimous written consent of the shareholders must be given to those shareholders, including nonvoting shareholders entitled to notice under this article, who:

(1) did not consent in writing; and

(2) would have been entitled to notice of the meeting if the record date for the meeting was the date on which the first shareholder's signed consent was delivered to the corporation under subsection (f).

(i) A document required to be filed under any other section of this article regarding the action consented to by the shareholders under this section must state, instead of any statement required by another section of this article concerning any vote of the shareholders, that written consent has been given in accordance with this section.

SECTION 2. IC 23-1-38.5-13, AS ADDED BY P.L.178-2002,

SECTION 99, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 13. (a) After conversion of a domestic business corporation to a domestic other entity has been adopted and approved as required by this chapter, articles of entity conversion must be executed on behalf of the corporation by any officer or other duly authorized representative. The articles must:

(1) set forth the name of the corporation immediately before the filing of the articles of entity conversion and the name to which the name of the corporation is to be changed, which must satisfy the organic law of the surviving entity;

(2) state the type of other entity that the surviving entity will be;

(3) set forth a statement that the plan of entity conversion was duly approved by the shareholders in the manner required by this chapter and the articles of incorporation; and

(4) if the surviving entity is a filing entity, either contain all of the provisions required to be set forth in its public organic document and any other desired provisions that are permitted, or have attached a public organic document, except that, in either case, provisions that would not be required to be included in a restated public organic document may be omitted.

(b) After the conversion of a domestic other entity to a domestic business corporation has been adopted and approved as required by the organic law of the other entity, an officer or another duly authorized representative of the other entity must execute articles of entity conversion on behalf of the other entity. The articles must:

(1) set forth the name of the other entity immediately before the filing of the articles of entity conversion and the name to which the name of the other entity is to be changed, which must satisfy the requirements of IC 23-1-23-1;

(2) set forth a statement that the plan of entity conversion was duly approved in accordance with the organic law of the other entity; **and**

(3) either contain all of the provisions that IC 23-1-21-2(a) requires to be set forth in articles of incorporation and any other desired provisions that IC 23-1-21-2(b) permits to be included in articles of incorporation, or have attached articles of incorporation, except that, in either case provisions that would not be required to be included in restated articles of incorporation of a domestic business corporation may be omitted.

(c) **After the conversion of a domestic other entity to a different domestic other entity has been adopted and approved as required by the organic law of the different other entity, an officer or another authorized representative of the other entity must execute the articles of entity conversion on behalf of the other entity. The articles must:**

(1) set forth the name of the other entity immediately before the filing of the articles of entity conversion and the name to which the name of the other entity is to be changed, which must satisfy the requirements of IC 23-1-23-1;

(2) set forth a statement that the plan of entity conversion was approved in accordance with the organic law of the other entity; and

(3) if the surviving entity is a filing entity, either contain all the provisions required to be set forth in its public organic document and any other desired provisions that are permitted or have attached a public organic document, except that, in either case, provisions that would not be required to be included in a restated public organic document may be omitted.

(d) After the conversion of a foreign other entity to a domestic business corporation has been authorized as required by the laws of the foreign jurisdiction, articles of entity conversion must be executed on behalf of the foreign other entity by any officer or authorized representative. The articles must:

(1) set forth the name of the other entity immediately before the filing of the articles of entity conversion and the name to which the name of the other entity is to be changed, which must satisfy the requirements of IC 23-1-23-1;

(2) set forth the jurisdiction under the laws of which the other entity was organized immediately before the filing of the articles of entity conversion and the date on which the other entity was organized in that jurisdiction;

(3) set forth a statement that the conversion of the other entity was duly approved in the manner required by its organic law; and

(4) either contain all of the provisions that IC 23-1-21-2(a) requires to be set forth in articles of incorporation and any other desired provisions that IC 23-1-21-2(b) permits to be included in articles of incorporation, or have attached articles of incorporation, except that, in either case, provisions that would not be required to be included in restated articles of incorporation of a domestic business corporation may be omitted.

(e) After the conversion of a foreign other entity to a different foreign other entity has been authorized as required by the laws of the foreign jurisdiction, the articles of entity conversion must be executed on behalf of the foreign other entity by any officer or authorized representative. The articles must:

(1) set forth the name of the other entity immediately before the filing of the articles of entity conversion and the name to which the name of the other entity is to be changed, which must satisfy the requirements of IC 23-1-23-1;

(2) set forth the jurisdiction under the laws of which the other entity was organized immediately before the filing of the articles of entity conversion and the date on which the other entity was organized in that jurisdiction;

(3) set forth a statement that the conversion of the other entity was approved in the manner required by its organic law; and

(4) if the surviving entity is a filing entity, either contain all the provisions required to be set forth in its public organic document and any other desired provisions that are permitted or have attached a public organic document, except that, in either case, provisions that would not be required to be included in a restated public organic document may be omitted.

~~(d)~~ **(f)** The articles of entity conversion must be delivered to the secretary of state for filing and take effect at the effective time provided in IC 23-1-18-4.

~~(e)~~ **(g)** If the converting entity is a foreign other entity that is authorized to transact business in Indiana under a provision of law similar to IC 23-1-49, its certificate of authority or other type of foreign qualification is canceled automatically on the effective date of its conversion.

(Reference is to ESB 383 as printed March 28, 2003.)

CLARK	FRY
BRODEN	RIPLEY
Senate Conferees	House Conferees

The conference committee report was filed and read a first time.

CONFERENCE COMMITTEE REPORT
EHB 1369–1; filed April 23, 2003, at 2:55 p.m.

Mr. Speaker: Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed Senate Amendments to Engrossed House Bill 1369 respectfully reports that said two committee have conferred and agreed as follows to wit:

that the House recede from its dissent from all Senate amendments and that the House now concur in all Senate amendments to the bill and that the bill be further amended as follows:

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 6-1.1-12.1-3, AS AMENDED BY P.L.90-2002, SECTION 118, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) An applicant must provide a statement of benefits to the designating body. If the designating body requires information from the applicant for economic revitalization area status for use in making its decision about whether to designate an economic revitalization area, the applicant shall provide the completed statement of benefits form to the designating body before the hearing required by section 2.5(c) of this chapter.

Otherwise, the statement of benefits form must be submitted to the designating body before the initiation of the redevelopment or rehabilitation for which the person desires to claim a deduction under this chapter. The department of local government finance shall prescribe a form for the statement of benefits. The statement of benefits must include the following information:

(1) A description of the proposed redevelopment or rehabilitation.

(2) An estimate of the number of individuals who will be employed or whose employment will be retained by the person as a result of the redevelopment or rehabilitation and an estimate of the annual salaries of these individuals.

(3) An estimate of the value of the redevelopment or rehabilitation.

With the approval of the designating body, the statement of benefits may be incorporated in a designation application. Notwithstanding any other law, a statement of benefits is a public record that may be inspected and copied under IC 5-14-3-3.

(b) The designating body must review the statement of benefits required under subsection (a). The designating body shall determine whether an area should be designated an economic revitalization area or whether a deduction should be allowed, based on (and after it has made) the following findings:

(1) Whether the estimate of the value of the redevelopment or rehabilitation is reasonable for projects of that nature.

(2) Whether the estimate of the number of individuals who will be employed or whose employment will be retained can be reasonably expected to result from the proposed described redevelopment or rehabilitation.

(3) Whether the estimate of the annual salaries of those individuals who will be employed or whose employment will be retained can be reasonably expected to result from the proposed described redevelopment or rehabilitation.

(4) Whether any other benefits about which information was requested are benefits that can be reasonably expected to result from the proposed described redevelopment or rehabilitation.

(5) Whether the totality of benefits is sufficient to justify the deduction.

A designating body may not designate an area an economic revitalization area or approve a deduction unless the findings required by this subsection are made in the affirmative.

(c) Except as provided in subsections (a) through (b), the owner of property which is located in an economic revitalization area is entitled to a deduction from the assessed value of the property. If the area is a residentially distressed area, the period is not more than five (5) years. For all other economic revitalization areas designated before July 1, 2000, the period is three (3), six (6), or ten (10) years. For all economic revitalization areas designated after June 30, 2000, the period is the number of years determined under subsection (d). The owner is entitled to a deduction if:

(1) the property has been rehabilitated; or

(2) the property is located on real estate which has been redeveloped.

The owner is entitled to the deduction for the first year, and any successive year or years, in which an increase in assessed value resulting from the rehabilitation or redevelopment occurs and for the following years determined under subsection (d). However, property owners who had an area designated an urban development area pursuant to an application filed prior to January 1, 1979, are only entitled to a deduction for a five (5) year period. In addition, property owners who are entitled to a deduction under this chapter pursuant to an application filed after December 31, 1978, and before January 1, 1986, are entitled to a deduction for a ten (10) year period.

(d) For an area designated as an economic revitalization area after June 30, 2000, that is not a residentially distressed area, the designating body shall determine the number of years for which the property owner is entitled to a deduction. However, the deduction may not be allowed for more than ten (10) years. This determination shall be made:

(1) as part of the resolution adopted under section 2.5 of this chapter; or

(2) by resolution adopted within sixty (60) days after receiving a copy of a property owner's certified deduction application from the county auditor. A certified copy of the resolution shall be sent to the county auditor who shall make the deduction as provided in section 5 of this chapter.

A determination about the number of years the deduction is allowed that is made under subdivision (1) is final and may not be changed by following the procedure under subdivision (2).

(e) Except for deductions related to redevelopment or rehabilitation of real property in a county containing a consolidated city or a deduction related to redevelopment or rehabilitation of real property initiated before December 31, 1987, in areas designated as economic revitalization areas before that date, a deduction for the redevelopment or rehabilitation of real property may not be approved for the following facilities:

(1) Private or commercial golf course.

(2) Country club.

(3) Massage parlor.

(4) Tennis club.

(5) Skating facility (including roller skating, skateboarding, or ice skating).

(6) Racquet sport facility (including any handball or racquetball court).

(7) Hot tub facility.

(8) Suntan facility.

(9) Racetrack.

(10) Any facility the primary purpose of which is:

(A) retail food and beverage service;

(B) automobile sales or service; or

(C) other retail;

unless the facility is located in an economic development target area established under section 7 of this chapter.

(11) Residential, unless:

(A) the facility is a multifamily facility that contains at least twenty percent (20%) of the units available for use by low and moderate income individuals;

(B) the facility is located in an economic development target area established under section 7 of this chapter; or

(C) the area is designated as a residentially distressed area.

(12) A package liquor store that holds a liquor dealer's permit under IC 7.1-3-10 or any other entity that is required to operate under a license issued under IC 7.1. This subdivision does not apply to an applicant that:

(A) was eligible for tax abatement under this chapter before July 1, 1995; ~~or~~

(B) is described in IC 7.1-5-7-11; **or**

(C) operates an entity under:

(i) a beer wholesaler's permit under IC 7.1-3-3;

(ii) a liquor wholesaler's permit under IC 7.1-3-8; or

(iii) a wine wholesaler's permit under IC 7.1-3-13;

for which the applicant claims a deduction under this chapter.

(f) This subsection applies only to a county having a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000). Notwithstanding subsection (e)(11), in a county subject to this subsection a designating body may, before September 1, 2000, approve a deduction under this chapter for the redevelopment or rehabilitation of real property consisting of residential facilities that are located in unincorporated areas of the county if the designating body makes a finding that the facilities are needed to serve any combination of the following:

(1) Elderly persons who are predominately low-income or moderate-income persons.

(2) Disabled persons.

A designating body may adopt an ordinance approving a deduction under this subsection only one (1) time. This subsection expires January 1, 2011.

SECTION 2. IC 7.1-2-3-16.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 16.5. (a) As used in this section, "facility" includes the following:

(1) A facility to which IC 7.1-3-1-25(a) applies.

(2) A tract that contains a premises that is described in ~~IC 7.1-3-1-14(c)(2).~~ **IC 7.1-3-1-14(c)(2).**

(3) A horse track or satellite facility to which IC 7.1-3-17.7 applies.

(4) A tract that contains an entertainment complex.

(b) As used in this section, "tract" has the meaning set forth in IC 6-1.1-1-22.5.

(c) A facility may advertise alcoholic beverages:

(1) in the facility's interior; or

(2) on the facility's exterior.

(d) The commission may not exercise the prohibition power contained in section 16(a) of this chapter on advertising by a brewer, distiller, rectifier, or vintner in or on a facility.

(e) Notwithstanding IC 7.1-5-5-10 and IC 7.1-5-5-11, a facility may provide advertising to a permittee that is a brewer, distiller, rectifier, or vintner in exchange for compensation from that permittee.

SECTION 3. IC 7.1-3-1-14, AS AMENDED BY P.L.136-2000, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 14. (a) It is lawful for an appropriate permittee, unless otherwise specifically provided in this title, to sell alcoholic beverages each day Monday through Saturday from 7 a.m., prevailing local time, until 3 a.m., prevailing local time, the following day. Sales shall cease wholly on Sunday at 3 a.m., prevailing local time, and not be resumed until the following Monday at 7 a.m., prevailing local time.

(b) It is lawful for the holder of a supplemental retailer's permit ~~which is not specified in subsection (c)~~ to sell the appropriate alcoholic beverages on Sunday from ~~noon,~~ **10 a.m.,** prevailing local time, until ~~12:30 a.m.,~~ **3 a.m.,** prevailing local time, the following day.

~~(c) It is lawful for the holder of a supplemental retailer's permit to sell the appropriate alcoholic beverages on Sunday from 11:00 a.m., prevailing local time, until 12:30 a.m., prevailing local time, the following day if the holder of the permit meets the following criteria:~~

~~(1) the holder of the permit is a hotel; or~~

~~(2) the holder of the permit meets the requirements of 905 IAC 1-41-2(a).~~

~~(d) Notwithstanding subsections (b) and (c), if December 31 (New Year's Eve) is on a Sunday, it is lawful for the holder of a supplemental retailer's permit to sell the appropriate alcoholic beverages on Sunday, December 31 from the time provided in subsection (b) or (c) until 3 a.m. the following day.~~

~~(c)~~ **(c)** It is lawful for the holder of a permit under this article to sell alcoholic beverages at athletic or sports events held on Sunday upon premises that:

(1) are described in section 25(a) of this chapter;

(2) are a facility used in connection with the operation of a paved track more than two (2) miles in length that is used primarily in the sport of auto racing; or

(3) are being used for a professional or an amateur tournament;

beginning one (1) hour before the scheduled starting time of the event or, if the scheduled starting time of the event is 1 p.m. or later, beginning at noon.

~~(f)~~ **(d)** It is lawful for the holder of a valid beer, wine, or liquor wholesaler's permit to sell to the holder of a valid retailer's or dealer's permit at any time.

SECTION 4. IC 7.1-3-9-12 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 12. (a) This section applies to:**

(1) the holder of a three-way permit that is issued to a civic center, a sports arena, a stadium, an exhibition hall, an auditorium, a theater, a tract that contains a premises that is described in IC 7.1-3-1-14(c)(2), or a convention center; or

(2) the holder of a catering permit while catering alcoholic beverages at a civic center, a sports arena, a stadium, an exhibition hall, an auditorium, a theater, a tract that contains a premises that is described in IC 7.1-3-1-14(c)(2), or a convention center.

(b) As used in this section, "suite" means an area in a building or facility referred to in subsection (a) that:

(1) is not accessible to the general public;

(2) has accommodations for not more than seventy-five (75) persons; and

(3) is accessible only to persons who possess a ticket:

(A) to an event in a building or facility referred to in subsection (a); and

(B) that entitles the person to occupy the area while viewing the event described in clause (A).

The term does not include a restaurant, lounge, or concession area, even if access to the restaurant, lounge, or concession area is limited to certain ticket holders.

(c) A permittee may allow the self-service of individual servings of alcoholic beverages in a suite.

(d) A person who:

(1) possesses a ticket described in subsection (b)(3); and

(2) is at least twenty-one (21) years of age;

may obtain an alcoholic beverage in a suite by self-service.

(e) A permittee may do any of the following:

(1) Demand that a person occupying a suite provide:

(A) a written statement under IC 7.1-5-7-4; and

(B) identification indicating that the person is at least twenty-one (21) years of age.

(2) Supervise the self-service of alcoholic beverages.

(3) Have an employee in the suite who holds an employee permit under IC 7.1-3-18-9 to serve some or all of the alcoholic beverages.

SECTION 5. IC 7.1-3-20-16, AS AMENDED BY P.L.170-2002, SECTION 55, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 16. (a) A permit that is authorized by this section may be issued without regard to the quota provisions of IC 7.1-3-22.

(b) The commission may issue a three-way permit to sell alcoholic beverages for on premises consumption only to an applicant who is the proprietor, as owner or lessee, or both, of a restaurant facility in the passenger terminal complex of a publicly owned airport which is served by a scheduled commercial passenger airline certified to enplane and deplane passengers on a scheduled basis by a federal aviation agency. A permit issued under this subsection shall not be transferred to a location off the airport premises.

(c) The commission may issue a three-way, two-way, or one-way permit to sell alcoholic beverages for on premises consumption only to an applicant who is the proprietor, as owner or lessee, or both, of a restaurant within a redevelopment project consisting of a building or group of buildings that:

(1) was formerly used as part of a union railway station;

(2) has been listed in or is within a district that has been listed in the federal National Register of Historic Places maintained pursuant to the National Historic Preservation Act of 1966, as amended; and

(3) has been redeveloped or renovated, with the redevelopment or renovation being funded in part with grants from the federal, state, or local government.

A permit issued under this subsection shall not be transferred to a location outside of the redevelopment project.

(d) The commission may issue a three-way, two-way, or one-way permit to sell alcoholic beverages for on premises consumption only to an applicant who is the proprietor, as owner or lessee, or both, of a restaurant:

(1) on land; or

(2) in a historic river vessel;

within a municipal riverfront development project funded in part with state and city money. A permit issued under this subsection may not be transferred. **If an applicant already holds a retailer's permit for the premises, the applicant is not eligible for a permit under this section.**

(e) The commission may issue a three-way, two-way, or one-way permit to sell alcoholic beverages for on premises consumption only to an applicant who is the proprietor, as owner or lessee, or both, of a restaurant within a renovation project consisting of a building that:

(1) was formerly used as part of a passenger and freight railway station; and

(2) was built before 1900.

The permit authorized by this subsection may be issued without regard to the proximity provisions of IC 7.1-3-21-11.

(f) The commission may issue a three-way permit for the sale of alcoholic beverages for on premises consumption at a cultural center for the visual and performing arts to a town that:

(1) is located in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000); and

(2) has a population of more than twenty thousand (20,000) but less than twenty-three thousand (23,000).

SECTION 6. IC 7.1-3-21-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. ~~Residency Requirements.~~ The commission shall not issue:

(1) an alcoholic beverage ~~wholesaler's,~~ retailer's or dealer's permit of any type; **or**

(2) a wine wholesaler's or liquor wholesaler's permit;

to a person who has not been a continuous and bona fide resident of this state for five (5) years immediately preceding the date of the application for a permit.

SECTION 7. IC 7.1-3-21-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. The commission shall not issue:

(1) an alcoholic beverage ~~wholesaler's,~~ retailer's or dealer's permit of any type; **or**

(2) a wine wholesaler's or liquor wholesaler's permit;

to a partnership unless each member of the partnership possesses the same qualifications as those required of an individual applicant for that particular type of permit.

SECTION 8. IC 7.1-3-21-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. (a) ~~Corporations.~~ The commission shall not issue:

(1) an alcoholic beverage ~~wholesaler's,~~ retailer's or dealer's permit of any type; **or**

(2) a wine wholesaler's or liquor wholesaler's permit;

to a corporation unless sixty percent (60%) of the outstanding common stock is owned by persons who have been continuous and bona fide residents of this state for five (5) years.

(b) The commission shall not issue ~~an alcoholic beverage~~ **a liquor** wholesaler's permit ~~of any type~~ to a corporation unless at least one (1) of the stockholders shall have been a resident, for at least one (1) year immediately prior to making application for the permit, of the county in which the licensed premises are to be situated.

(c) Each officer and stockholder of a corporation shall possess all other qualifications required of an individual applicant for that particular type of permit.

SECTION 9. IC 7.1-3-21-5.2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5.2. (a) The commission shall not issue:

(1) an alcoholic beverage ~~wholesalers,~~ retailer's or dealer's permit of any type; **or**

(2) a wine wholesaler's or liquor wholesaler's permit;

to a limited partnership unless at least sixty percent (60%) of the partnership interest is owned by persons who have been continuous and bona fide residents of Indiana for five (5) years.

(b) The commission shall not issue ~~an alcoholic beverage~~ **a liquor** wholesaler's permit ~~of any type~~ to a limited partnership unless for at least one (1) year immediately before making application for the permit, at least one (1) of the persons having a partnership interest has been a resident of the county in which the licensed premises are to be situated.

(c) Each general partner and limited partner of a limited partnership must possess all other qualifications required of an individual applicant for that particular type of permit.

SECTION 10. IC 7.1-3-21-5.4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5.4. (a) The commission shall not issue:

(1) an alcoholic beverage ~~wholesalers,~~ retailer's or dealer's permit of any type; **or**

(2) a wine wholesaler's or liquor wholesaler's permit;

to a limited liability company unless at least sixty percent (60%) of the membership interest is owned by persons who have been continuous and bona fide residents of Indiana for five (5) years.

(b) The commission shall not issue ~~an alcoholic beverage~~ **a liquor** wholesaler's permit ~~of any type~~ to a limited liability company unless for at least one (1) year immediately before making application for the permit, at least one (1) of the persons having a membership interest has been a resident of the county in which the licensed premises are to be situated.

(c) Each manager and member of a limited liability company must possess all other qualifications required of an individual applicant for that particular type of permit.

SECTION 11. IC 7.1-5-9-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 10. ~~Retailer Owning Interest in Another Permit Prohibited.~~ **(a) Except as provided in subsection (b),** it is unlawful for a holder of a retailer's permit of any type to acquire, hold, own, or possess an interest of any type in a manufacturer's or wholesaler's permit of any type.

(b) It is lawful for a holder of a retailer's permit of any type to acquire, hold, own, or possess an interest of any type in a brewer's permit for a brewery that manufactures not more than twenty thousand (20,000) barrels of beer in a calendar year.

SECTION 12. IC 7.1-5-9-5 IS REPEALED [EFFECTIVE JULY 1, 2003].

(Reference is to EHB 1369 as printed April 4, 2003.)

KUZMAN	SERVER
ALDERMAN	LEWIS
House Conferees	Senate Conferees

The conference committee report was filed and read a first time.

OTHER BUSINESS ON THE SPEAKER'S TABLE

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has concurred in the House amendments to Engrossed Senate Bills 286 and 422.

MARY C. MENDEL
Principal Secretary of the Senate

HOUSE MOTION

Mr. Speaker: I move that Representatives Burton, Porter, and T. Adams be added as coauthors of House Concurrent Resolution 60.

BUCK

Motion prevailed.

Pursuant to House Rule 156, conference committee meetings were announced.

On the motion of Representative Porter, the House adjourned at 3:10 p.m., this twenty-third day of April, 2003, until Thursday, April 24, 2003, at 9:00 a.m.

B. PATRICK BAUER
Speaker of the House of Representatives

DIANE MASARIU CARTER
Principal Clerk of the House of Representatives